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AND DIGESTS OF MEASURES

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Measures Submitted to Vote of Electors,
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General Laws, Amendments to the Codes, Resolutions,
and Constitutional Amendments passed by the
California Legislature

2003–04 Regular Session
2003–04 Third Extraordinary Session
2003–04 Fourth Extraordinary Session
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CHAPTER 178

An act to amend Section 17912 of the Business and Professions Code, to amend Sections 395.2 and 416.40 of the Code of Civil Procedure, to amend Sections 174.5, 5063.5, 12242.5, 15800, and 21200 of, to amend the heading of Part 5 (commencing with Section 24000) of Title 3 of, to add Sections 16309 and 16310 to, to add Part 1 (commencing with Section 18000) to Title 3 of, and to add Chapter 1 (commencing with Section 18605) to Part 2 of Title 3 of, and to repeal Sections 24000, 24001, 24002, 24003, 24004, 24005, 24006, and 24007 of, and to repeal Part 1 (commencing with Section 20000) of, and Chapter 1 (commencing with Section 21000) and Chapter 2 (commencing with Section 21100) of Part 2 of, Title 3 of, the Corporations Code, and to amend Section 50089 of the Government Code, relating to unincorporated associations.

[Approved by Governor July 19, 2004. Filed with
Secretary of State July 20, 2004.]

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

SECTION 1. Section 17912 of the Business and Professions Code is amended to read:

17912. This chapter does not apply to a real estate investment trust as defined in Section 23000 of the Corporations Code that has a statement on file, pursuant to Section 18200 of the Corporations Code, designating an agent for service of process or has qualified to do business under Chapter 21 (commencing with Section 2100) of Division 1 of the Corporations Code.

SEC. 2. Section 395.2 of the Code of Civil Procedure is amended to read:

395.2. If an unincorporated association has filed a statement with the Secretary of State pursuant to statute, designating its principal office in this state, the proper county for the trial of an action against the unincorporated association is the same as it would be if the unincorporated association were a corporation and, for the purpose of determining the proper county, the principal place of business of the unincorporated association shall be deemed to be the principal office in this state listed in the statement.

SEC. 3. Section 416.40 of the Code of Civil Procedure is amended to read:

416.40. A summons may be served on an unincorporated association (including a partnership) by delivering a copy of the summons and of the complaint:

(a) If the association is a general or limited partnership, to the person designated as agent for service of process in a statement filed with the Secretary of State or to a general partner or the general manager of the partnership;

(b) If the association is not a general or limited partnership, to the person designated as agent for service of process in a statement filed with the Secretary of State or to the president or other head of the association, a vice president, a secretary or assistant secretary, a treasurer or assistant treasurer, a general manager, or a person authorized by the association to receive service of process;

(c) When authorized by Section 18220 of the Corporations Code, as provided by that section.

SEC. 4. Section 174.5 of the Corporations Code is amended to read:

174.5. "Other business entity" means a domestic or foreign limited liability company, limited partnership, general partnership, business trust, real estate investment trust, unincorporated association (other than a nonprofit association), or a domestic reciprocal insurer organized after 1974 to provide medical malpractice insurance as set forth in Article 16 (commencing with Section 1550) of Chapter 3 of Part 2 of Division 1 of the Insurance Code. As used herein, "general partnership" means a "partnership" as defined in subdivision (7) of Section 16101; "business trust" means a business organization formed as a trust; "real estate investment trust" means a "real estate investment trust" as defined in subsection (a) of Section 856 of the Internal Revenue Code of 1986, as amended; and "unincorporated association" has the meaning set forth in Section 18035.

SEC. 5. Section 5063.5 of the Corporations Code is amended to read:

5063.5. "Other business entity" means a domestic or foreign limited liability company, limited partnership, general partnership, business trust, real estate investment trust, unincorporated association (other than a nonprofit association), or a domestic reciprocal insurer organized after 1974 to provide medical malpractice insurance as set forth in Article 16 (commencing with Section 1550) of Chapter 3 of Part 2 of Division 1 of the Insurance Code. As used herein, "general partnership" means a "partnership" as defined in subdivision (7) of Section 16101; "business trust" means a business organization formed as a trust; "real estate investment trust" means a "real estate investment trust" as defined in subsection (a) of Section 856 of the Internal Revenue Code of 1986, as amended; and "unincorporated association" has the meaning set forth in Section 18035.

SEC. 6. Section 12242.5 of the Corporations Code is amended to read:

12242.5. “Other business entity” means a domestic or foreign limited liability company, limited partnership, general partnership, business trust, real estate investment trust, unincorporated association (other than a nonprofit association), or a domestic reciprocal insurer organized after 1974 to provide medical malpractice insurance as set forth in Article 16 (commencing with Section 1550) of Chapter 3 of Part 2 of Division 1 of the Insurance Code. As used herein, “general partnership” means a “partnership” as defined in subdivision (7) of Section 16101; “business trust” means a business organization formed as a trust; “real estate investment trust” means a “real estate investment trust” as defined in subsection (a) of Section 856 of the Internal Revenue Code of 1986, as amended; and “unincorporated association” has the meaning set forth in Section 18035.

SEC. 7. Section 15800 of the Corporations Code is amended to read:

15800. (a) Every partnership, other than a foreign limited partnership subject to Chapter 3 (commencing with Section 15611) or a commercial or banking partnership established and transacting business in a place without the United States, that is domiciled without this state and has no regular place of business within this state, shall, within 40 days from the time it commences to do business in this state, file a statement in the office of the Secretary of State in accordance with Section 16309 designating some natural person or corporation as the agent of the partnership upon whom process issued by authority of or under any law of this state directed against the partnership may be served. A copy of the designation, duly certified by the Secretary of State, is sufficient evidence of the appointment.

(b) The process may be served in the manner provided in subdivision (b) of Section 16310 on the person so designated, or, in the event that no person has been designated, or if the agent designated for the service of process is a natural person and cannot be found with due diligence at the address stated in the designation, or if the agent is a corporation and no person can be found with due diligence to whom the delivery authorized by subdivision (b) of Section 16310 may be made for the purpose of delivery to the corporate agent, or if the agent designated is no longer authorized to act, then service may be made by personal delivery to the Secretary of State, Assistant Secretary of State, or a Deputy Secretary of State of the process, together with a written statement signed by the party to the action seeking the service, or by the party’s attorney, setting forth the last known address of the partnership and a service fee as set forth in Section 12197 of the Government Code. The Secretary of State shall immediately give notice of the service to the partnership by forwarding the process to it by registered mail, return receipt requested, at the address given in the written statement.

(c) Service on the person designated, or personal delivery of the process and statement of address together with a service fee as set forth in Section 12197 of the Government Code to the Secretary of State, Assistant Secretary of State, or a Deputy Secretary of State, pursuant to this section is a valid service on the partnership. The partnership so served shall appear within 30 days after service on the person designated or within 30 days after delivery of the process to the Secretary of State, Assistant Secretary of State, or a Deputy Secretary of State.

SEC. 8. Section 16309 is added to the Corporations Code, to read:

16309. (a) The statement of partnership authority may designate an agent for service of process. The agent may be an individual residing in this state or a corporation that has complied with Section 1505 and whose capacity to act as an agent has not terminated. If an individual is designated, the statement shall include that person's complete business or residence address in this state.

(b) An agent designated for service of process may file with the Secretary of State a signed and acknowledged written statement of resignation as an agent. On filing of the statement of resignation, the authority of the agent to act in that capacity shall cease and the Secretary of State shall give written notice of the filing of the statement of resignation by mail to the partnership, addressed to its principal executive office.

(c) If an individual who has been designated agent for service of process dies or resigns or no longer resides in the state, or if the corporate agent for that purpose resigns, dissolves, withdraws from the state, forfeits its right to transact intrastate business, has its corporate rights, powers, and privileges suspended, or ceases to exist, the partnership or foreign partnership shall promptly file an amended statement of partnership authority, designating a new agent.

SEC. 9. Section 16310 is added to the Corporations Code, to read:

16310. (a) If a partnership has designated an agent for service of process, process may be served on the partnership as provided in this section and in Chapter 4 (commencing with Section 413.10) of Title 5 of Part 2 of the Code of Civil Procedure.

(b) Personal service of a copy of any process against the partnership by delivery to an individual designated by it as agent, or if the designated agent is a corporation, to a person named in the latest certificate of the corporate agent filed pursuant to Section 1505 at the office of the corporate agent, shall constitute valid service on the partnership.

(c) No change in the address of the agent for service of process or appointment of a new agent for service of process shall be effective until an amendment to the statement of partnership authority is filed.

(d) (1) If an agent for service of process has resigned and has not been replaced, or if the designated agent cannot with reasonable diligence be

found at the address designated for personal delivery of the process, and it is shown by affidavit to the satisfaction of the court that process against a partnership cannot be served with reasonable diligence upon the designated agent by hand in the manner provided in Section 415.10, subdivision (a) of Section 415.20, or subdivision (a) of Section 415.30 of the Code of Civil Procedure, the court may make an order that the service shall be made on a partnership by delivering by hand to the Secretary of State, or to any person employed in the Secretary of State's office in the capacity of assistant or deputy, one copy of the process for each defendant to be served, together with a copy of the order authorizing the service. Service in this manner shall be deemed complete on the 10th day after delivery of the process to the Secretary of State.

(2) Upon receipt of the copy of process and the fee for service, the Secretary of State shall give notice of the service of the process to the partnership, at its principal executive office, by forwarding to that office, by registered mail with request for return receipt, the copy of the process.

(3) The Secretary of State shall keep a record of all process served on the Secretary of State under this section and shall record therein the time of service and the action taken by the Secretary of State. A certificate under the Secretary of State's official seal, certifying to the receipt of process, the giving of notice to the partnership, and the forwarding of the process pursuant to this section, shall be competent and prima facie evidence of the service of process.

SEC. 10. Part 1 (commencing with Section 18000) is added to Title 3 of the Corporations Code, to read:

PART 1. GENERAL PROVISIONS

CHAPTER 1. DEFINITIONS

18000. Unless the provision or context otherwise requires, the definitions in this chapter govern the construction of this title.

18005. "Director" means a natural person serving as a member of the board or other representative governing body of the unincorporated association.

18010. "Governing principles" means the principles stated in the constitution, articles of association, bylaws, regulations, or other writing that governs the purpose or operation of an unincorporated association, or the rights or obligations of its members. If there is no written provision governing an issue, the association's governing principles regarding that issue may be inferred from its established practices. For the purpose of this section, "established practices" means the practices used by an unincorporated association without material change or exception during

the most recent five years of its existence, or if it has existed for less than five years, during its entire existence.

18015. (a) If the governing principles of an unincorporated association define the membership of the association, “member” has the meaning provided by the governing principles.

(b) If the governing principles of an unincorporated association do not define the membership of the association, “member” means a person who, pursuant to the governing principles of the unincorporated association, has a right to participate in the selection of persons authorized to manage the affairs of the unincorporated association or in the development of policy of the unincorporated association, but does not include a person who participates solely as director, officer, or agent of the association.

18020. (a) “Nonprofit association” means an unincorporated association with a primary common purpose other than to operate a business for profit.

(b) A nonprofit association may carry on a business for profit and apply any profit that results from the business activity to any activity in which it may lawfully engage.

18025. “Officer” means a natural person serving as an unincorporated association’s chair, president, secretary, chief financial officer, or other position of authority that is established pursuant to the association’s governing principles.

18030. “Person” includes a natural person, corporation, partnership, or other unincorporated organization, government, or governmental subdivision or agency, or any other entity.

18035. (a) “Unincorporated association” means an unincorporated group of two or more persons joined by mutual consent for a common lawful purpose, whether organized for profit or not.

(b) Joint tenancy, tenancy in common, community property, or other form or property tenure does not by itself establish an unincorporated association, even if coowners share ownership of the property for a common purpose.

(c) Marriage or creation of a registered domestic partnership does not by itself establish an unincorporated association.

CHAPTER 2. APPLICATION OF TITLE

18055. This title does not apply to any of the following persons:

- (a) A corporation.
- (b) A government or governmental subdivision or agency.
- (c) A partnership or joint venture.
- (d) A limited liability company.

(e) A labor organization, labor federation, labor council, or labor committee, that is governed by a constitution or bylaws. As used in this subdivision, “labor organization” means any organization of any kind, or any agency or employee representation committee or plan, where employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

18060. If a statute specific to a particular type of unincorporated association is inconsistent with a general provision of this title, the specific statute prevails to the extent of the inconsistency.

18065. Except to the extent this title provides a specific rule, the general law of agency, including Article 2 (commencing with Section 2019) of Chapter 2 of Title 6 of, and Title 9 (commencing with Section 2295) of, Part 4 of Division 3 of the Civil Code, applies to an unincorporated association.

18070. A provision of this title, insofar as it is substantially the same as a previously existing provision relating to the same subject matter, shall be considered as a restatement and continuation thereof and not as a new enactment, and a reference in a statute to the provision shall be deemed to include a reference to the previously existing provision unless a contrary intent appears.

CHAPTER 3. PROPERTY

18100. The interest of a member in an unincorporated association is personal property.

18105. An unincorporated association may, in its name, acquire, hold, manage, encumber, or transfer an interest in real or personal property.

18110. Property acquired by or for an unincorporated association is property of the unincorporated association and not of the members individually.

18115. The acquisition, transfer, or encumbrance of an interest in real property by an unincorporated association shall be executed by its president and secretary or other comparable officers, or by a person specifically designated by a resolution adopted by the association, or by a committee or other body or person authorized to act by the governing principles of the association.

18120. (a) An unincorporated association may record in a county in which it has an interest in real property a verified and acknowledged statement of authority stating the name of the association, and the names, title, or capacity of its officers and other persons who are authorized on its behalf to acquire, transfer, or encumber real property. For the

purposes of this section, "statement of authority" includes a certified copy of a statement recorded in another county.

(b) An unincorporated association may revoke a statement of authority by recording either of the following documents in the county in which the statement of authority is recorded:

(1) A new statement of authority that satisfies the requirements of subdivision (a). The new statement supersedes the revoked statement.

(2) A verified and acknowledged document that expressly revokes the statement of authority.

(c) It shall be conclusively presumed in favor of a bona fide transferor, or purchaser, or encumbrancer for value of real property of the association located in the county in which a statement of authority has been recorded pursuant to subdivision (a), that a person designated in the statement is authorized to acquire, transfer, or encumber real property on behalf of the association.

(d) The presumption provided in subdivision (c) does not apply if, before the acquisition, transfer, or encumbrance, either of the following occurs:

(1) The statement of authority is revoked by the unincorporated association.

(2) A person claiming to be a member, director, or officer of the unincorporated association records, in the county in which the property is located, a verified and acknowledged document stating that the statement of authority is erroneous or unauthorized.

18125. No limitation on the power of an unincorporated association to acquire, hold, manage, pledge, encumber, or transfer an interest in real or personal property, or the manner of exercise of those powers, shall be asserted as between the unincorporated association or a member of the unincorporated association and a third person, except in the following proceedings:

(a) A proceeding to enjoin an unauthorized act, or the continuation of an unauthorized act, where a third person has not yet acquired rights that would be adversely affected by the injunction, or where, at the time of the unauthorized act, the third person had actual knowledge that the act was unauthorized.

(b) A proceeding to dissolve the unincorporated association.

(c) A proceeding against a director, officer, or agent of the unincorporated association for violation of that person's authority.

18130. After all of the known debts and liabilities of an unincorporated association in the process of winding up its affairs have been paid or adequately provided for, the assets of the association shall be distributed in the following manner:

(a) Assets held upon a valid condition requiring return, transfer, or conveyance of the assets, which condition has occurred or will occur,

shall be returned, transferred, or conveyed in accordance with the condition.

(b) After complying with subdivision (a), any remaining assets that are held in trust shall be distributed in accordance with the trust.

(c) After complying with subdivisions (a) and (b), any remaining assets shall be distributed in accordance with the governing principles of the association. If the governing principles do not provide the manner of distribution of the assets, the assets shall be distributed pro rata to the current members of the association.

18135. (a) Notwithstanding Section 18260, a cause of action against an unincorporated association may be enforced against a person who received assets distributed under Section 18130. Liability under this section shall be limited to the value of the assets distributed to the person or the person's pro rata share of the claim against the unincorporated association, whichever is less.

(b) An action under this section shall be commenced before the earlier of the following dates:

(1) Expiration of the statute of limitations applicable to the cause of action.

(2) Four years after dissolution of the unincorporated association. This paragraph does not apply in a quiet title action.

CHAPTER 4. DESIGNATION OF AGENT FOR SERVICE OF PROCESS

18200. (a) An unincorporated association may file with the Secretary of State, on a form prescribed by the Secretary of State, a statement containing either of the following:

(1) A statement designating the location and complete address of the unincorporated association's principal office in this state. Only one place may be designated.

(2) A statement (A) designating the location and complete address of the unincorporated association's principal office in this state in accordance with paragraph (1) or, if the unincorporated association does not have an office in this state, designating the complete address of the unincorporated association to which the Secretary of State shall send any notices required to be sent to the association under Sections 18210 and 18215, and (B) designating as agent of the association for service of process any natural person residing in this state or any corporation that has complied with Section 1505 and whose capacity to act as an agent has not terminated.

(b) If a natural person is designated as agent for service of process, the statement shall include the person's complete business or residence address. If a corporate agent is designated, no address for it shall be included.

(c) Filing is deemed complete on acceptance by the Secretary of State of the statement, a copy of the statement, and the filing fee. The Secretary of State shall return the copy of the statement to the unincorporated association, with notations that indicate the file number and filing date of the original.

(d) At any time, an unincorporated association that has filed a statement under this section may file a new statement superseding the last previously filed statement. If the new statement does not designate an agent for service of process, the filing of the new statement shall be deemed to revoke the designation of an agent previously designated. A statement filed under this section expires five years from December 31 following the date it was filed in the office of the Secretary of State, unless previously superseded by the filing of a new statement.

(e) Delivery by hand of a copy of any process against the unincorporated association (1) to any natural person designated by it as agent, or (2) if the association has designated a corporate agent, to any person named in the last certificate of the corporate agent filed pursuant to Section 1505 at the office of the corporate agent shall constitute valid service on the association.

(f) For filing a statement as provided in this section, the Secretary of State shall charge and collect the fee provided in paragraph (1) of subdivision (b) of Section 12191 of the Government Code for filing a designation of agent.

(g) Notwithstanding Section 18055, a statement filed by a partnership under former Section 24003 is subject to this chapter until the statement is revoked or expires.

18205. (a) The Secretary of State shall mark each statement filed under Section 18200 with a consecutive file number and the date of filing. In lieu of retaining the original statement, the Secretary of State may retain a copy in accordance with Section 14756 of the Government Code.

(b) The Secretary of State shall index each statement filed under Section 18200 according to the name of the unincorporated association as set out in the statement and shall enter in the index the file number and the address of the association as set out in the statement and, if an agent for service of process is designated in the statement, the name of the agent and, if a natural person is designated as the agent, the address of that person.

(c) Upon request of any person, the Secretary of State shall issue a certificate showing whether, according to the Secretary of State's records, there is on file on the date of the certificate, any presently effective statement filed under Section 18200 for an unincorporated association using a specific name designated by the person making the request. If a statement is on file, the certificate shall include the

information required by subdivision (b) to be included in the index. The fee for the certificate is the fee provided in Section 12183 of the Government Code.

(d) When a statement has expired under subdivision (d) of Section 18200, the Secretary of State shall enter that fact in the index together with the date of the expiration.

(e) Four years after a statement has expired, the Secretary of State may destroy or otherwise dispose of the statement and delete information concerning that statement from the index.

18210. (a) An agent designated by an unincorporated association for the service of process may file with the Secretary of State a signed and acknowledged written statement of resignation as agent of the unincorporated association. The resignation is effective when filed. The Secretary of State shall mail written notice of the filing to the unincorporated association at its address set out in the statement filed by the association.

(b) An unincorporated association may at any time file with the Secretary of State a revocation of a designation of an agent for service of process. The revocation is effective when filed.

(c) Notwithstanding subdivisions (a) and (b), service made on an agent designated by an unincorporated association for service of process in the manner provided in subdivision (e) of Section 18200 is effective if made within 30 days after the statement of resignation or the revocation is filed with the Secretary of State.

18215. Between the first day of October and the first day of December immediately preceding the expiration date of a statement filed under Section 18200, the Secretary of State shall send by first-class mail a notice, indicating the date on which the statement will expire and the file number assigned to the statement, to the unincorporated association at its address as set out in the statement. Neither the failure of the Secretary of State to mail the notice as provided in this section nor the failure of the notice to reach the unincorporated association shall continue the statement in effect after the date of its expiration. Neither the state nor any officer or employee of the state is liable for damages for failure to mail the notice as required by this section.

18220. If designation of an agent for the purpose of service of process has not been made as provided in Section 18200, or if the agent designated cannot with reasonable diligence be found at the address specified in the index referred to in Section 18205 for delivery by hand of the process, and it is shown by affidavit to the satisfaction of a court or judge that process against an unincorporated association cannot be served with reasonable diligence upon the designated agent by hand or the unincorporated association in the manner provided for in Section 415.10 or 415.30 of the Code of Civil Procedure or subdivision (a) of

Section 415.20 of the Code of Civil Procedure, the court or judge may make an order that service be made upon the unincorporated association by delivery of a copy of the process to one or more of the association's members designated in the order and by mailing a copy of the process to the association at its last known address. Service in this manner constitutes personal service upon the unincorporated association.

CHAPTER 5. LIABILITY AND ENFORCEMENT OF JUDGMENTS

18250. Except as otherwise provided by law, an unincorporated association is liable for its act or omission and for the act or omission of its director, officer, agent, or employee, acting within the scope of the office, agency, or employment, to the same extent as if the association were a natural person.

18260. A money judgment against an unincorporated association, whether organized for profit or not, may be enforced only against the property of the association.

18270. (a) A judgment creditor of a member, director, officer, or agent of an unincorporated association may not levy execution against the assets of the member, director, officer, or agent to satisfy a judgment based on a claim against the unincorporated association unless a judgment based on the same claim has been obtained against the unincorporated association and any of the following conditions is satisfied:

(1) A writ of execution on the judgment against the unincorporated association has been returned unsatisfied in whole or in part.

(2) The unincorporated association is a debtor in bankruptcy.

(3) The member, director, officer, or agent has agreed that the creditor need not exhaust the assets of the unincorporated association.

(4) A court grants permission to the judgment creditor to levy execution against the assets of a member, director, officer, or agent based on a finding that the assets of the unincorporated association subject to execution are clearly insufficient to satisfy the judgment, that exhaustion of the assets of the unincorporated association is excessively burdensome, or that the grant of permission is an appropriate exercise of the court's equitable powers.

(b) Nothing in this section affects the right of a judgment creditor to levy execution against the assets of a member, director, officer, or agent of an unincorporated association if the claim against the member, director, officer, or agent is not based on a claim against the unincorporated association.

SEC. 11. Chapter 1 (commencing with Section 18605) is added to Part 2 of Title 3 of the Corporations Code, to read:

CHAPTER 1. LIABILITY

18605. A member, director, or agent of a nonprofit association is not liable for a debt, obligation, or liability of the association solely by reason of being a member, director, officer, or agent.

18610. A member of a nonprofit association is not liable for a contractual obligation of the association unless one of the following conditions is satisfied:

(a) The member expressly assumes personal responsibility for the obligation in a signed writing that specifically identifies the obligation assumed.

(b) The member expressly authorizes or ratifies the specific contract, as evidenced by a writing. This subdivision does not apply if the member authorizes or ratifies a contract solely in the member's capacity as a director, officer, or agent of the association.

(c) With notice of the contract, the member receives a benefit under the contract. Liability under this subdivision is limited to the value of the benefit received.

(d) The member executes the contract without disclosing that the member is acting on behalf of the association.

(e) The member executes the contract without authority to execute the contract.

18615. A director, officer, or agent of a nonprofit association is not liable for a contractual obligation of the association unless one of the following conditions is satisfied:

(a) The director, officer, or agent expressly assumes responsibility for the obligation in a signed writing that specifically identifies the obligation assumed.

(b) The director, officer, or agent executes the contract without disclosing that the director, officer, or agent is acting on behalf of the association.

(c) The director, officer, or agent executes the contract without authority to execute the contract.

18630. Notwithstanding any other provision of this chapter, a member or person in control of a nonprofit association may be subject to liability for a debt, obligation, or liability of the association under common law principles governing alter ego liability of shareholders of a corporation, taking into account the differences between a nonprofit association and a corporation.

18640. Nothing in this chapter limits application of the Uniform Fraudulent Transfer Act (Chapter 1 (commencing with Section 3439) of Title 2 of Part 2 of Division 4 of the Civil Code).

SEC. 12. Part 1 (commencing with Section 20000) of Title 3 of the Corporations Code is repealed.

SEC. 13. Chapter 1 (commencing with Section 21000) of Part 2 of Title 3 of the Corporations Code is repealed.

SEC. 14. Chapter 2 (commencing with Section 21100) of Part 2 of Title 3 of the Corporations Code is repealed.

SEC. 15. Section 21200 of the Corporations Code is amended to read:

21200. Any unincorporated association that is an organized medical society limiting its membership to licensed physicians and surgeons and that has as members at least 25 percent of the eligible physicians and surgeons residing in the area in which it functions (which must be at least one county) may, without incorporation, purchase, receive, own, hold, lease, mortgage, pledge, or encumber by deed of trust or otherwise, manage and sell all the real estate and other property as may be convenient for the purposes and objects of the association. However, if the association has less than 100 members, it shall have as members at least a majority of the eligible persons or licensees in the geographic area served by the particular association. The members of that unincorporated association are not individually or personally liable for debts or liabilities contracted or incurred by the association in the acquisition of lands or leases or the purchase, leasing, construction, repairing or furnishing of buildings or other structures to be used for the purposes of the association or for debts or liabilities contracted or incurred by the association in the carrying out or performance of any of its purposes; provided, that the purposes are within the purposes stated in Section 18020.

SEC. 16. The heading of Part 5 (commencing with Section 24000) of Title 3 of the Corporations Code is amended to read:

PART 5. LIABILITY OF DIRECTOR OR OFFICER OF
NONPROFIT MEDICAL ASSOCIATION

SEC. 17. Section 24000 of the Corporations Code is repealed.

SEC. 18. Section 24001 of the Corporations Code is repealed.

SEC. 19. Section 24002 of the Corporations Code is repealed.

SEC. 20. Section 24003 of the Corporations Code is repealed.

SEC. 21. Section 24004 of the Corporations Code is repealed.

SEC. 22. Section 24005 of the Corporations Code is repealed.

SEC. 23. Section 24006 of the Corporations Code is repealed.

SEC. 24. Section 24007 of the Corporations Code is repealed.

SEC. 25. Section 50089 of the Government Code is amended to read:

50089. (a) Any employee organization primarily comprised of peace officers, as described by Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, that is a chapter of, or affiliated

directly or indirectly in any manner with, a general nonprofit corporation formed for the specific and primary purpose to act as an employee organization for peace officers in this state that directly or indirectly represents less than 7,000 retired or active peace officers, that has not filed with the Secretary of State an agent of the employee organization who has been designated for purposes of service of process as described in Section 1701, 6410, 8210, 9670, 12610, 18200, or 25550 of the Corporations Code by the effective date of this section, shall not be qualified to be the exclusive or majority bargaining agent, as described in subdivision (a) of Section 3502.5, until January 1, 2007.

(b) Any general nonprofit corporation formed for the specific and primary purpose to act as a recognized employee organization, as defined in subdivision (b) of Section 3501, for peace officers in this state that directly or indirectly represents less than 7,000 retired or active peace officers, that has any affiliate, chapter, or member that has failed to file with the Secretary of State an agent who has been designated for purposes of service of process by the effective date of this section, shall be prohibited from establishing or recognizing any member, affiliate, or chapter that was not a bona fide member, affiliate, or chapter of the nonprofit corporation as of January 1, 2003, until January 1, 2007.

(c) This section shall not apply to any national organization that directly or indirectly represents retired or active peace officers.

CHAPTER 179

An act to add Section 65302.4 to the Government Code, relating to land use.

[Approved by Governor July 19, 2004. Filed with
Secretary of State July 20, 2004.]

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

SECTION 1. Section 65302.4 is added to the Government Code, to read:

65302.4. The text and diagrams in the land use element that address the location and extent of land uses, and the zoning ordinances that implement these provisions, may also express community intentions regarding urban form and design. These expressions may differentiate neighborhoods, districts, and corridors, provide for a mixture of land uses and housing types within each, and provide specific measures for

regulating relationships between buildings, and between buildings and outdoor public areas, including streets.

CHAPTER 180

An act to amend Sections 17314, 17314.1, 17321, 17331, 17331.1, 17331.2, 17332, and 17345.1 of the Financial Code, relating to financial institutions.

[Approved by Governor July 19, 2004. Filed with
Secretary of State July 20, 2004.]

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

SECTION 1. Section 17314 of the Financial Code is amended to read:

17314. (a) Fidelity Corporation shall pay a member for loss of trust obligations subject to the limitations set forth in this chapter. Fidelity Corporation shall pay or deny the claim within 90 days of receipt of the proof of loss filed by a member, or a member's successor in interest. Notwithstanding any other provision of this article, the protection to members provided by Fidelity Corporation and by the fidelity bond or insurance policy, if any, shall not extend to any transaction involving any member at any branch or business location outside the State of California, but shall extend only to escrow trust obligations and trust funds located within the State of California.

(b) Coverage shall be provided to members in accordance with the following schedule:

MONTHLY AVERAGE ESCROW LIABILITY PER LOCATION	COVERAGE
\$0 – \$ 1,000,000	\$1,000,000
over \$1,000,000 – \$ 3,000,000	\$2,000,000
over \$3,000,000 – \$ 5,000,000	\$3,000,000
over \$5,000,000 – \$ 7,500,000	\$4,000,000
over \$7,500,000 – \$10,000,000	\$5,000,000

Pursuant to the schedule, the minimum coverage by Fidelity Corporation for each licensed location shall be one million dollars (\$1,000,000) and the maximum coverage for each licensed location shall be five million dollars (\$5,000,000).

(c) A member shall maintain minimum coverage in accordance with the schedule in subdivision (b) and shall monitor its escrow liability

monthly. An increase in escrow liability above the monthly average escrow liability coverage as provided for in subdivision (b) shall be reported immediately to Fidelity Corporation. Upon receipt of this report, Fidelity Corporation shall immediately provide for the increase in coverage, and shall immediately bill and collect pursuant to Section 17321, an amount necessary to provide for the increased coverage.

(d) Any member with a licensed location or locations with a monthly average escrow liability greater than ten million dollars (\$10,000,000) shall obtain a bond from a corporate surety which is an admitted insurer in the State of California insuring the balance of trust funds not covered by Fidelity Corporation, in a ratio of one dollar of coverage for every three dollars of trust obligations not covered by Fidelity Corporation. The Fidelity Corporation shall have the authority to obtain the excess coverage bond. The cost of the bond shall be shared pro rata by those members included in the coverage.

(e) If a member establishes, to the satisfaction of the commissioner, that a bond is not available or is impracticable under subdivision (d), then, at the member's election, either:

(1) The member shall place average trust obligations in excess of ten million dollars (\$10,000,000) in a restricted escrow trust account. Each transfer or release of the funds to be made by specific resolution of the member's board of directors and the signature of a neutral third party; or

(2) The licensed location of the member with average trust balances in excess of ten million dollars (\$10,000,000) shall be subject to examinations to be conducted at a frequency as deemed appropriate and necessary by the commissioner or Fidelity Corporation, but not less frequently than once a year.

(f) Any member subject to subdivision (e) shall within 10 business days after the effective date of this section notify Fidelity Corporation of its election. A member who subsequently becomes subject to subdivision (e) shall within a like period of time notify Fidelity Corporation of its election. Fidelity Corporation shall also be notified of any change of election in a like period of time. Fidelity Corporation shall notify the commissioner within 10 business days of receipt of any notice under this subdivision of the elections made. All notices under this subdivision shall be in writing.

SEC. 2. Section 17314.1 of the Financial Code is amended to read:

17314.1. (a) Notwithstanding any other provision of this article, Fidelity Corporation shall not be obligated to pay any claim made by a member unless (1) the claim would, except for the dollar amount thereof, be a valid claim under the bond as prescribed by Section 17203.1 and (2) the claim is made within the time prescribed by Section 17205. The protection to members provided by Fidelity Corporation and by the

fidelity bond or insurance policy, if any, shall therefore be deemed to be coextensive except as to the dollar amounts as set forth in Section 17314. All defenses available to the insurer under the fidelity bond or insurance policy, if any, on any claim shall also be a defense to Fidelity Corporation on any claim brought against the corporation.

(b) No person other than a member, or the member's successor in interest, who shall be the commissioner, a conservator, receiver, or trustee as designated by a court of competent jurisdiction, is entitled to assert a claim against Fidelity Corporation for losses covered under this article.

SEC. 3. Section 17321 of the Financial Code is amended to read:

17321. Fidelity Corporation shall bill and collect from each member an annual premium that in the aggregate shall consist of assessments for the operations fund and the fidelity fund.

(a) The annual assessment for the operations fund shall be assessed no later than October 15 of each year for the current fiscal year in accordance with subdivision (b) of Section 17320. The payment of any invoice for assessments under this subdivision is payable by the member escrow agent in three equal and consecutive monthly installments with the first installment payable at or within 30 days after receipt of the Fidelity Corporation invoice. The assessment shall include:

(1) All costs and expenses of administration as budgeted by the board of directors for the current fiscal year.

(2) Any expenses actually incurred in the preceding fiscal year which exceeded the budgeted costs of expenses and administration except for expenses recovered pursuant to subdivision (a) of Section 17321.1.

Each member's assessment shall be determined pro rata based upon the ratio of each member's licensed locations to the total licensed locations of all members as of the preceding June 30.

Members licensed on or after July 1 of each year shall be assessed only for costs and expenses pursuant to paragraph (1) of this subdivision. This assessment shall be prorated on a monthly basis.

(b) The annual assessment for the fidelity fund shall be assessed no later than May 1. The assessment shall include any amount necessary to replenish the membership fund pursuant to Section 17324, and shall be based upon the balances of the membership fund and the fidelity fund as of December 31 of the previous year and the escrow liability schedule of each licensed location as provided in Section 17348, and shall be calculated as follows:

(1) If the membership fund and fidelity fund in the aggregate equal an amount less than five million dollars (\$5,000,000), or if the balance in the fidelity fund is less than two million five hundred thousand dollars (\$2,500,000), then the assessment shall be the greater of: (A) the amount necessary to bring the membership fund and fidelity fund in the

aggregate up to five million dollars (\$5,000,000), but not to exceed one million dollars (\$1,000,000) per assessment, or (B) the amount necessary to maintain a minimum fidelity fund balance of two million five hundred thousand dollars (\$2,500,000), including the amount of the assessment, or (C) four hundred thousand dollars (\$400,000).

(2) If the membership fund and fidelity fund in the aggregate equal an amount that is at least five million dollars (\$5,000,000), and the balance in the fidelity fund is at least two million five hundred thousand dollars (\$2,500,000), then the assessment shall be four hundred thousand dollars (\$400,000).

Each member's fidelity fund assessment for paragraphs (1) and (2) shall be the amount derived by multiplying the amount to be assessed by the ratio that each member's risk factors bear to the total of all members' risk factors.

A member's risk factors shall be computed in accordance with the following formula, except that the total factors of a member shall be reduced by one for each licensed branch location:

Coverage per Licensed Location	Factors
\$1,000,000	3
\$2,000,000	5
\$3,000,000	7
\$4,000,000	8
\$5,000,000	9

(c) Notwithstanding subdivision (b), the assessment for the fidelity fund for the fiscal year beginning July 1, 1989, shall be made immediately upon 90-day notice of cancellation of the fidelity bond or insurance policy permitted by paragraph (2) of subdivision (c) of Section 17310, but in no event later than 60 days prior to the date of cancellation.

(d) Every licensed member as of March 31 shall pay the fidelity fund assessment, without any pro rata adjustment, notwithstanding that the member may have surrendered a license or have a license revoked prior to the date that the assessment is mailed.

SEC. 4. Section 17331 of the Financial Code is amended to read:

17331. (a) An applicant applying for licensure as an escrow agent under this division is required to apply for a Fidelity Corporation Certificate, prepared and issued by Fidelity Corporation, for each proposed shareholder, officer, director, trustee, manager, or employee who is to be directly or indirectly compensated by the escrow agent, prior to licensure of the escrow agent by the commissioner.

(b) A shareholder, officer, director, trustee, manager, or employee of an escrow agent, directly or indirectly compensated by an escrow agent

within this state, is required to complete and execute a Fidelity Corporation Certificate application, prepared and issued by Fidelity Corporation, as a condition of his or her employment or entitlement to compensation, before the person may continue the regular discharge of his or her duties, or have access to moneys or negotiable securities belonging to or in the possession of the escrow agent, or draw checks upon the escrow agent or the trust funds of the escrow agent.

(c) Fidelity Corporation Certificates may also be known as Escrow Agent's Fidelity Corporation Certificates or EAFC Certificates. The certificate at all times remains the property of Fidelity Corporation, and is not transferable by either a member or employee. The certificate is not a warranty or guarantee by Fidelity Corporation of the integrity, veracity, or competence of the person.

(d) An application for a Fidelity Corporation Certificate shall be in writing and in the form prescribed by Fidelity Corporation. The application may include (1) a fee not to exceed fifty dollars (\$50), (2) two passport-size photographs, and (3) a set of fingerprints on the form established by the Department of Justice for requesting state summary criminal history information, plus the fee charged by the Department of Justice for processing noncriminal applicant fingerprints. The Department of Justice shall honor the Fidelity Corporation report request form and issue a report to Fidelity Corporation, notwithstanding any other provision of law or regulation to the contrary. Fidelity Corporation is also entitled to submit a set of fingerprints on the specified noncriminal applicant fingerprint form for the purpose of requesting and obtaining a report from the Department of Justice, for the officers and employees of Fidelity Corporation. A member shall cause the filing of applications for all existing employees as required by this section within 30 days of written notice by Fidelity Corporation to the member.

(e) The application form shall include a provision for binding arbitration to allow for arbitration of any appeal or dispute as to a decision by Fidelity Corporation concerning the certificate, as follows:

A DISPUTE AS TO WHETHER THE DENIAL OF THIS CERTIFICATE APPLICATION OR ANY SUBSEQUENT SUSPENSION OR REVOCATION OF THE CERTIFICATE IS UNNECESSARY OR UNAUTHORIZED OR WAS IMPROPERLY, NEGLIGENTLY, OR UNLAWFULLY RENDERED, MAY BE DETERMINED BY SUBMISSION TO ARBITRATION AS PROVIDED BY CALIFORNIA LAW, AND NOT BY A LAWSUIT OR RESORT TO COURT PROCESS EXCEPT AS CALIFORNIA LAW PROVIDES FOR JUDICIAL REVIEW OF ARBITRATION PROCEEDINGS OR EXCEPT AS PROVIDED BY SECTION

17331.3 OF THE FINANCIAL CODE. THE APPLICANT MAY, SUBJECT TO AGREEMENT, SUBMIT ANY ISSUE ARISING FROM A DECISION BY FIDELITY CORPORATION TO DENY THIS CERTIFICATE APPLICATION OR TO SUSPEND OR REVOKE THE CERTIFICATE TO BE DECIDED BY BINDING NEUTRAL ARBITRATION. UPON AN AGREEMENT TO SUBMIT TO BINDING NEUTRAL ARBITRATION, THE APPLICANT HAS NO RIGHT TO HAVE ANY DISPUTE CONCERNING THIS CERTIFICATE APPLICATION LITIGATED IN A COURT OR JURY TRIAL NOR ANY JUDICIAL RIGHTS TO DISCOVERY AND APPEAL, EXCEPT AS SPECIFICALLY PROVIDED IN THE ESCROW LAW. ARBITRATION MAY BE COMPELLED AS PROVIDED BY LAW.

(f) There is no liability on the part of and no cause of action of any nature may arise against Fidelity Corporation or its members, directors, officers, employees, or agents, the State of California, the Department of Corporations, or any officer, agent, or employee of the state or the Department of Corporations for statements made by Fidelity Corporation in reports or recommendations made pursuant to this division, or for reports or recommendations made pursuant to this division to Fidelity Corporation by its members, directors, officers, employees or agents, the State of California, the Department of Corporations, or any officer, agent, or employee of the state or the Department of Corporations, unless the information provided is false and the party making the statement or providing the false information does so with knowledge and malice. Reports or recommendations made pursuant to this section, or Section 17331.1, 17331.2, or 17331.3 are not public documents.

(g) There is no liability on the part of and no cause of action of any nature may arise against Fidelity Corporation or its members, directors, officers, employees, or agents, the State of California, the Department of Corporations, or an officer, agent, or employee of the state or the Department of Corporations for the release of any information furnished to Fidelity Corporation pursuant to this section unless the information released is false and the party, including Fidelity Corporation, its members, directors, officers, employees, or agents, the state, the Department of Corporations, or any officer, agent, or employee of the state or the Department of Corporations, who releases the false information does so with knowledge and malice.

(h) There is no liability on the part of and no cause of action of any nature may arise against Fidelity Corporation or its directors, officers, employees, or agents, for any decision to deny an application for a certificate or to suspend or revoke the certificate of any person or for the

timing of any decision or the timing of any notice to persons or members thereof, or for any failure to deny an application under subdivision (a) of Section 17331.2. This subdivision does not apply to acts performed in bad faith or with malice.

(i) Fidelity Corporation, any member of Fidelity Corporation, an agent of Fidelity Corporation or of its members, or any person who uses any information obtained under this section for any purpose not authorized by this chapter is guilty of a misdemeanor.

(j) Section 17331, 17331.1, or 17331.2 does not constitute a restriction or limitation upon the obligation of Fidelity Corporation to indemnify members against loss, as provided in Sections 17310 and 17314. The failure to obtain a certificate, the denial of an application for a certificate, or the suspension, cancellation, or revocation of a certificate does not limit the obligation of Fidelity Corporation to indemnify a member against loss.

(k) As of January 1, 1992, notwithstanding Section 11105 of the Penal Code, Fidelity Corporation is entitled to receive state summary criminal history information and subsequent arrest notification from the Department of Justice as a result of fingerprint cards submitted to the Department of Justice by the Department of Corporations, pursuant to subdivision (g) of Section 17209, Section 17212.1, and subdivision (d) of Section 17414.1, by or on behalf of escrow agents, shareholders, officers, directors, trustees, managers, or employees of an escrow agent, directly or indirectly compensated by an escrow agent. The Department of Justice and Fidelity Corporation shall enter into an agreement to implement this subdivision. The Department of Corporations shall forward to Fidelity Corporation, weekly, a list of names of individual fingerprints submitted to the Department of Justice.

SEC. 5. Section 17331.1 of the Financial Code is amended to read:

17331.1. (a) Any person not previously issued a certificate must, upon employment with an escrow agent within this state, apply to Fidelity Corporation for a certificate. The member shall submit all applications for certificates to Fidelity Corporation within 10 business days of the date of employment. The person may continue employment until or unless denied a certificate by Fidelity Corporation.

(b) Upon written notice by Fidelity Corporation to any or all members that any person has been denied a certificate, or has had a certificate suspended, canceled, or revoked, no member or person acting on behalf of a member shall authorize that person to have access to money or negotiable securities belonging to or in the possession of the escrow agent, or to draw checks upon the escrow agent or the trust accounts of the escrow agent. Any member or person who commits or who causes a violation of this section, which violation was either known or should have been known by the member or the person committing or causing

the violation, may be subject to action by the commissioner and Fidelity Corporation as provided for in this division.

(c) Each member and each person required to have a certificate shall comply with the Fidelity Corporation rules, to be approved by the commissioner, concerning the manner and timing within which Fidelity Corporation shall receive notice of employment, change of the person's name, mailing address, or employment status, the certificate form, and the procedures for the administration thereof. Fidelity Corporation may collect a fee to cover the cost of processing the notices but no fee shall exceed twenty-five dollars (\$25).

(d) Fidelity Corporation shall assess the member a penalty at the rate of twenty-five dollars (\$25) for every day that the member has not fully complied with this section, Section 17331, or Section 17331.2.

(e) Any member that suffers a loss of trust obligations caused by any person who is required to have a certificate but has (1) failed to apply for a certificate, (2) has had the application for a certificate denied, (3) has a suspended certificate, or (4) whose certificate has been revoked shall be obligated to pay a deductible in the amount of 100 percent of the amount of the loss, notwithstanding the amount of the statutory deductible as prescribed by Section 17314.3. The failure to obtain a certificate, the denial of an application for a certificate, or the suspension, cancellation, or revocation of a certificate shall not limit the obligation of Fidelity Corporation to indemnify a member against loss of trust obligations as defined in this division.

SEC. 6. Section 17331.2 of the Financial Code is amended to read:

17331.2. (a) Fidelity Corporation shall deny the application for a certificate or revoke the certificate of any person, upon any of the following grounds:

(1) The application contains a material misrepresentation of fact or fails to disclose a material fact so as to render the application false or misleading, or if any fact or condition exists which, if it had existed at the time of the original application for a certificate, reasonably would have warranted Fidelity Corporation to refuse originally to issue that certificate.

(2) That the person has been convicted of, or pleaded nolo contendere to, a crime or offense, whether a felony, an offense punishable as a felony, or a misdemeanor, which involved dishonesty, fraud, deceit, embezzlement, fraudulent conversion, misappropriation of property, or any other crime reasonably related to the qualifications, functions, or duties of a person engaged in business in accordance with this division. If, however, the conviction is more than 10 years old, or the conviction has been expunged, or the person has obtained a certificate of rehabilitation, as allowed by the Penal Code, or if the conviction was an infraction, then the person may have a Fidelity Corporation certificate

upon showing by clear and convincing proof to a reasonable certainty that the conviction is no longer reasonably related to the qualifications, functions, or duties of a person engaged in business in accordance with this division or that person's employment with a member.

(3) That the person has been held liable in a civil action by final judgment of any court if the judgment involved dishonesty, fraud, deceit, embezzlement, fraudulent conversion, or misappropriation of property or the person has been ordered to make restitution to a victim in any criminal case involving a crime or offense set forth in paragraph (2). The person may have a Fidelity Corporation certificate upon showing by clear and convincing proof to a reasonable certainty that the judgment or restitution order is no longer reasonably related to the qualifications, functions, or duties of a person engaged in business in accordance with this division or that person's employment with a member.

(4) That the person has (A) committed or caused to be committed an act which caused any member to suffer a loss; (B) committed or caused to be committed or colluded with any other person committing any act which caused a loss, for which Fidelity Corporation or the insurer on any insurance policy or fidelity bond purchased by Fidelity Corporation, or both, to become liable to indemnify any member; or (C) committed or caused to be committed an act of dishonesty, fraud, deceit, embezzlement, fraudulent conversion, or misappropriation of property, to the material damage of a member or for which the member has been held liable to any third party, by final judgment.

(5) That the person has been barred from employment by final order of the commissioner pursuant to Section 17423.

(6) That the person has been deemed not qualified to serve in any capacity as a director or officer or in any other position involving management duties with a financial institution, pursuant to Division 1.8 (commencing with Section 4990).

(7) That the person has been denied coverage or reinstatement by any insurer under any fidelity bond or crime policy, unless a decision of reinstatement of coverage has been made after that denial. A person who obtained a decision of reinstatement of coverage prior to the effective date of this section may have a Fidelity Corporation certificate notwithstanding paragraphs (2) and (3) of this subdivision, unless any other ground for denial or revocation applies to that person.

(b) Fidelity Corporation may suspend the certificate of any person upon any of the following grounds:

(1) That the person has been censured or suspended from any position of employment or management or control of any escrow agent, by final order of the commissioner. The certificate suspension shall be for a term concurrent with the final order of the commissioner.

(2) That there is an action commenced by the commissioner to either suspend or bar that person, under Section 17423.

(3) That the person has been barred from any position of employment or management or control of any escrow agent, for a term less than permanent, by final order of the commissioner. The certificate suspension shall be for a term concurrent with the final order of the commissioner.

(4) That any member with whom the person was employed has given a proof of loss or a notice of an occurrence which may give rise to a claim for a loss of trust obligations either of which identifies the person as the person responsible for the loss or as a person acting in collusion with the person causing the loss.

(c) Upon denial of an application for, or upon suspension or revocation of the certificate of any person, Fidelity Corporation shall provide written notice to the member with whom that person is employed of the decision, pending any appeal therefrom which might be made. Thereafter, the member shall not allow that person to have access to money or negotiable instruments or securities belonging to or in the possession of the escrow agent, or to draw checks upon the escrow agent or the trust accounts of the escrow agent, but that person may otherwise continue in the performance and discharge of other duties of an employee. Fidelity Corporation shall notify the person in writing of the decision to deny, suspend, or revoke the certificate and of the person's right of appeal, together with the notice of appeal. The grounds and basis for the decision shall be stated in the notice thereof. All notices may be served either personally or by mail, properly addressed to the address of record for the member and the person.

(d) Any person whose application for a certificate has been denied, or whose certificate has been suspended or revoked, may appeal the decision, as provided in Section 17331.3. While that appeal is pending, the person may not have access to money or negotiable instruments or securities belonging to or in the possession of the escrow agent, or to draw checks upon the escrow agent or the trust accounts of the escrow agent, but that person may otherwise continue in the performance and discharge of other duties of an employee pending final decision of that person's appeal. Failure to remove the person whose application has been denied, or whose certificate has been suspended or revoked, as a signer on the trust accounts may be subject to action by the commissioner as provided for in this division and shall be subject to penalties as set forth in Section 17331.1.

(e) Upon expiration of the time for an appeal, or upon conclusion of the appeal, the decision to deny an application for or to suspend or revoke the certificate of any person shall become final. Fidelity Corporation shall give written notice to the member and to the person of the final

decision within 10 days. Thereafter, Fidelity Corporation shall disclose in writing to all members the identity of persons whose application has been denied or whose certificate has been revoked.

SEC. 7. Section 17332 of the Financial Code is amended to read:

17332. When either Fidelity Corporation or the insurer providing the fidelity bond or insurance policy, if any, under Section 17310, or both, pay an obligation on behalf of a member, Fidelity Corporation and the insurer shall be subrogated to the rights, claims, and remedies of the member up to the amount paid by Fidelity Corporation and the insurer on behalf of the member. Independent of any duty or obligation of Fidelity Corporation, the member shall do nothing to prejudice those rights. In any subrogation action filed by Fidelity Corporation, the provider of the fidelity bond or insurance policy if payment was made thereunder, or both, Fidelity Corporation shall have the first right to the proceeds of any judgment or settlement obtained against the principal obligors and any other party who is held liable jointly or severally, in whole or in part, with the principal obligors, up to the amount actually paid on the claim by Fidelity Corporation. Fidelity Corporation and the insurer, as subrogees, shall also recover in the subrogation action reasonable costs and attorney's fees which may be awarded either as part of any judgment or as an item of costs, as provided for in paragraph (10) of subdivision (a) and paragraph (5) of subdivision (c) of Section 1033.5 of the Code of Civil Procedure. No member engaged in business pursuant to Section 17200 shall be required to pay those costs and attorney's fees awarded pursuant to this section. Amounts recouped by Fidelity Corporation through subrogation, minus all costs, attorney's fees, and other administrative expenses incurred in obtaining that recovery, shall be credited to the fidelity fund.

SEC. 8. Section 17345.1 of the Financial Code is amended to read:

17345.1. (a) A member or successor in interest aggrieved by any action or decision of Fidelity Corporation may file a written request for a hearing with the commissioner within 30 days from the action or decision.

(b) (1) Except as provided in subdivision (c), the hearing shall be conducted by an administrative law judge on the staff of the Office of Administrative Hearings and the administrative law judge's proposed decision shall be made within 120 days from the date of the request for hearing. This time limit does not constitute a jurisdictional deadline and may be extended by stipulation of the parties or by order of the administrative law judge for good cause.

(2) The hearing shall be conducted in accordance with the administrative adjudication provisions of Chapters 4.5 (commencing with Section 11400) and Chapter 5 (commencing with Section 11500)

of Part 1 of Division 3 of Title 2 of the Government Code, except as specified in this subdivision.

(3) The following sections of the Government Code shall not apply to a hearing under this subdivision: Section 11503 (relating to accusations), Section 11504 (relating to statements of issues), Section 11505 (relating to contents of the statement to respondent), Section 11506 (relating to the notice of defense), Section 11507 (relating to amended or supplemental accusations), and Section 11516 (relating to amendment of accusations after submission of case).

(4) The sole parties to the hearing shall be the member or successor in interest (complainant) and Fidelity Corporation (respondent). Third-party intervention shall not be permitted. The disputes, claims, and interests of third parties shall not be within the jurisdiction of the proceedings. However, nothing in this paragraph prohibits any interested party from submitting an amicus brief upon approval by the administrative law judge, after a duly noticed motion demonstrating good cause.

(5) Within 10 days of receipt of the request for a hearing, the commissioner shall schedule the hearing with the Office of Administrative Hearings and shall serve each party by personal service or mail with notice of the hearing, which is to include the date, time, and place of the hearing.

(A) Within 10 days of service of the notice of hearing, the complainant shall file with the Office of Administrative Hearings, and serve upon the respondent by personal service or mail, a written statement setting forth the matters to be considered at the hearing in sufficient detail to permit the respondent to prepare and present its response. The statement shall contain the following:

(i) A brief statement of the facts that give rise to the hearing.

(ii) A statement of the issues to be considered at the hearing including relevant statutes and rules. If the statement includes issues not raised in the proof of loss claim or considered by respondent in its decision, respondent may move for abatement of the proceedings for consideration of those issues by respondent. The administrative law judge may abate the proceedings for a period not to exceed 60 days from the issuance of the order to abate. The administrative law judge may extend the time period for good cause upon motion by respondent or by stipulation of the parties. If respondent has not issued a revised decision within the period of abatement, the administrative law judge shall reset the matter for hearing.

(B) Within 20 days of service of the statement, respondent may file with the Office of Administrative Hearings, and serve upon the complainant by personal service or mail a written response to the statement.

(C) The statement of issues and response may be amended upon completion of discovery, except that notice of the amendment shall be no later than 30 days before the date set for hearing.

(6) Where the statement of issues includes a claim for a loss of trust obligations that has been denied by respondent, complainant shall bear the burden of establishing by a preponderance of the evidence that a loss as defined in Section 17304 has occurred and that respondent is required to pay the claim in accordance with this chapter. Each legal issue shall be adjudicated in the proposed decision and the commissioner's decision, except for any issue either withdrawn or waived by complainant or respondent, upon the submission of the case after hearing.

(7) Any party may move for a judgement on the pleadings or summary judgment, as a dispositive motion, pursuant to the Rules of Procedure of the Office of Administrative Hearings. The evidence in support of and standards for deciding the motions shall be as set forth in the Code of Civil Procedure. If the administrative law judge denies the motion, the matter shall be heard on the merits by the administrative law judge. If the administrative law judge grants the motion, the order shall be in the form of a proposed decision to the commissioner pursuant to subdivision (b) of Section 11517 of the Government Code.

(8) Nothing in this section shall be construed to require the losing party to pay the other party's costs and expenses, including attorney's fees.

(9) If the statement of issues is abated and respondent issues a revised decision, the parties may amend their pleadings within a reasonable period of time, as ordered by the administrative law judge.

(c) (1) If a request for hearing includes a claim for loss of trust obligations that has been denied by Fidelity Corporation and the claim involves the factors described in paragraph (3), the commissioner, upon the request of Fidelity Corporation and as provided herein, shall abstain from proceeding with a hearing. The matter may be adjudicated in a court of competent jurisdiction upon the filing of an action by the member or successor in interest. Fidelity Corporation shall notify the commissioner, in writing, of the grounds for abstention of jurisdiction within five days of the filing of the request for a hearing by the member or successor in interest. The commissioner shall rule on the abstention of jurisdiction request within 10 days of the notice and the ruling shall be considered final. In making a determination on the request for abstention, the commissioner may examine and investigate all facts connected with the request for abstention and may request information from any person as deemed necessary.

(2) If the commissioner denies the request for abstention of jurisdiction, the hearing shall be conducted in accordance with

subdivision (b), except that compliance by the commissioner with paragraph (5) of subdivision (b) shall be within five days of the ruling denying the abstention request.

(3) The factors requiring abstention of jurisdiction by the commissioner are as follows:

(A) The claim for a loss is based upon an alleged escrow transaction in which an officer, director, trustee, stockholder, manager, or employee of the member was a principal to the transaction.

(B) The claim involves (i) the need to determine conflicting claims or disputes to real property and (ii) there is a potential for double recovery by any principal to an escrow.

(4) The commissioner shall abstain if determination of the claim will cause some escrows to have preferable or favorable treatment over the other escrows held by the member or successor in interest.

CHAPTER 181

An act to amend Section 11093 of the Government Code, relating to statistical districts.

[Approved by Governor July 19, 2004. Filed with
Secretary of State July 20, 2004.]

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

SECTION 1. Section 11093 of the Government Code is amended to read:

11093. (a) (1) Any state agency or department that develops and maintains data and statistics on the municipal level, shall, in the preparation and maintenance of any statistical analyses, by city, either by population, fiscal, or other bases, make a separate breakdown of the San Fernando Valley, and shall require the City of Los Angeles to provide all necessary data.

(2) If the use of a tax area code is required in order to comply with paragraph (1), an alternate method may be used to determine the separate breakdown of the San Fernando Valley.

(b) The Controller may, upon request therefor contained in a motion adopted by the City Council of the City of Los Angeles, designate additional statistical areas within the City of Los Angeles, except that the additional statistical areas shall in no event exceed three in number.

(c) For purposes of this section, the San Fernando Valley is all the portion of Los Angeles City that is described as follows:

From a point commencing where the City of Los Angeles most northerly boundary intersects with the Golden State Freeway and following on the city boundary in an easterly direction where that boundary first intersects with the boundary of the City of Burbank; thence continuing southeasterly along the Burbank City boundary to its intersection with Barham Boulevard; thence in a southerly direction on Barham Boulevard to its intersection with Cahuenga Boulevard; thence in a southeasterly direction on Cahuenga Boulevard to Mulholland Drive; thence along Mulholland Drive to Owen Brown Road; thence in a southerly direction on Owen Brown Road to its intersection with the Los Angeles City boundary; thence following the Los Angeles City boundary west and northerly until that boundary intersects with the starting point at the Golden State Freeway.

CHAPTER 182

An act to amend Sections 6202, 17083, and 17550.47 of the Business and Professions Code, to amend Section 47 of the Civil Code, to amend Sections 93, 94, 116.310, 116.770, 437c, 485.230, 708.020, 708.030, 1005, 1141.16, 1141.24, 1283.05, 1775.11, 1985.3, 1985.6, 1987.5, 1991.1, and 2093 of, to add Title 4 (commencing with Section 2016.010) to Part 4 of, and to repeal Article 3 (commencing with Section 2016) of Chapter 3 of Title 3 of Part 4 of, the Code of Civil Procedure, to amend Sections 45312, 87675, 87679, and 88131 of the Education Code, to amend Sections 915, 1156, 1156.1, and 1560 of the Evidence Code, to amend Sections 3110.5, 3666, and 4331 of the Family Code, to amend Sections 309 and 5934 of the Fish and Game Code, to amend Sections 6276.04, 11045, 11187, 11189, 11511, 12972, 18671, 68092.5, and 68616 of the Government Code, to amend Sections 5710 and 6613 of the Labor Code, to amend Sections 186.11, 1054.6, and 1524 of the Penal Code, to amend Sections 451 and 452 of the Probate Code, to amend Section 20104.4 of the Public Contract Code, to amend Sections 3357 and 3769 of the Public Resources Code, to amend Section 1794 of the Public Utilities Code, to amend Section 25110 of the Revenue and Taxation Code, to amend Section 3050.1 of the Vehicle Code, and to amend Section 1100 of the Water Code, relating to civil discovery.

[Approved by Governor July 19, 2004. Filed with
Secretary of State July 20, 2004.]

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

SECTION 1. Section 6202 of the Business and Professions Code is amended to read:

6202. The provisions of Article 3 (commencing with Section 950) of Chapter 4 of Division 8 of the Evidence Code shall not prohibit the disclosure of any relevant communication, nor shall the provisions of Chapter 4 (commencing with Section 2018.010) of Title 4 of Part 4 of the Code of Civil Procedure be construed to prohibit the disclosure of any relevant work product of the attorney in connection with: (a) an arbitration hearing or mediation pursuant to this article; (b) a trial after arbitration; or (c) judicial confirmation, correction, or vacation of an arbitration award. In no event shall such disclosure be deemed a waiver of the confidential character of such matters for any other purpose.

SEC. 2. Section 17083 of the Business and Professions Code is amended to read:

17083. The testimony of any witness in any action brought under this chapter may be taken by deposition. The provisions of Chapter 3 (commencing with Section 2002) of Title 3 of Part 4 of, and the provisions of Title 4 (commencing with Section 2016.010) of Part 4 of, the Code of Civil Procedure are applicable to the witness, the testimony and the deposition.

In addition, the books and records of any party, or of any such witness, may be subpoenaed into court and introduced into evidence, or introduced, by reference, into evidence, and may be required to be produced at the taking of the deposition of any party or of any such witness and there inquired into.

SEC. 3. Section 17550.47 of the Business and Professions Code is amended to read:

17550.47. (a) (1) Any person aggrieved who suffers a loss of more than fifty dollars (\$50) of amounts paid for air or sea transportation or travel services may file a claim with the Travel Consumer Restitution Corporation by filing a claim form as required by Section 17550.46 and paying, by check or money order, a processing fee to the Travel Consumer Restitution Corporation in the amount of thirty-five dollars (\$35). Any check for the processing fee that is returned unpaid to the corporation by the financial institution upon which it is drawn shall be returned to the claimant and the claim shall be rejected for filing. Any claimant whose claim is rejected may resubmit his or her claim upon payment of a processing fee of fifty dollars (\$50).

(2) Any processing fee required by paragraph (1) shall be nonrefundable except where (A) a claim is denied on the basis as set forth in the statement of decision that either the seller of travel, at the time of sale, was not a participant in the Travel Consumer Restitution Fund or

the seller of travel was not registered, or (B) the claim is granted in whole or in part. In either case, the processing fee shall be refunded to the person aggrieved upon denial or upon payment of the claim, whichever is applicable.

(3) In no event shall a person aggrieved have more than one year after the scheduled date of completion of travel within which to file a claim with the Travel Consumer Restitution Fund.

(b) A person aggrieved may recover from the Travel Consumer Restitution Fund an amount not to exceed fifteen thousand dollars (\$15,000) per person aggrieved, not to exceed the amount paid to the participant by or on behalf of the person aggrieved for the transportation or travel services. Payments from the restitution fund shall be limited to restitution for sums paid for transportation or travel services and shall not include any other amounts, including, but not limited to, payment for lost wages, pain and suffering, emotional distress, travel insurance, lost luggage, or any consequential damages. The person aggrieved shall not be entitled to receive attorney's fees in connection with a filed claim or on appeal.

(c) All claims are to be decided on the written record before the corporation, with no hearing to be held. The record shall consist of a fully executed and complete claim form, any other documentation submitted by the claimant or the participant, and any documents or reports submitted by staff or the designated representative of the office of the Attorney General. Claims are to be decided within 45 days of receipt unless (1) the designated representative of the office of the Attorney General requests a continuance to obtain and submit information, or (2) the Travel Consumer Restitution Corporation determines that additional information or documentation is required to decide the claim. In either case, the claim shall be decided within 45 days of receipt of all additional information or documentation. A claim not decided timely shall be deemed granted.

(d) Whenever the Travel Consumer Restitution Corporation denies a claim in whole or in part, it shall provide to the claimant a written statement of decision setting forth the factual and legal basis for the denial.

(e) A claimant may request reconsideration of an adverse decision of the Travel Consumer Restitution Corporation by mailing a written request, accompanied by a processing fee of fifty dollars (\$50) paid by check or money order, within 20 days of the date a notice of denial and statement of decision was mailed to the claimant. Any check for the processing fee that is returned unpaid to the Travel Consumer Restitution Corporation by the financial institution upon which it is drawn shall be returned to the claimant and the request for

reconsideration shall not be determined until the claimant has paid the fifty dollar (\$50) processing fee.

(f) The Travel Consumer Restitution Corporation shall, within 60 days of receipt of the request, either decide the request or advise the claimant that additional information or documentation is needed, and, if the decision is a denial in whole or in part, it shall provide to the claimant and seller of travel a written statement of decision setting forth the factual and legal basis for the decision. No appeal may be taken pursuant to subdivision (g) until reconsideration has been requested and decided. The claimant shall not be entitled to any attorney's fees incurred in connection with presentation of a claim or request for reconsideration.

(g) No decision of the Travel Consumer Restitution Corporation granting or denying a claim in whole or part shall be subject to review or appeal except as provided in this section. A claimant may seek review of the denial, in whole or part, of a claim by filing a notice of appeal after having served the notice by mail on the Travel Consumer Restitution Corporation. The notice of appeal shall be filed and served on the Travel Consumer Restitution Corporation not later than 30 days after a written statement of decision on a request for reconsideration has been mailed to the claimant. The notice of appeal from a decision of the Travel Consumer Restitution Corporation shall be filed with the clerk of the superior court either in the county in which the principal place of business of the Travel Consumer Restitution Corporation is located, or in the county in which the claimant was a resident at the time the claimant purchased the transportation or travel services in dispute.

(h) The claimant shall pay the same filing fee as is required for appeals from small claims court. The Travel Consumer Restitution Corporation shall file its response and the record of the claim before the corporation with the clerk of the superior court within 30 days of the day the notice of appeal was served on the Travel Consumer Restitution Corporation.

(i) Upon the filing of the record the clerk of the court shall schedule a hearing for the earliest available time and shall mail written notice of the hearing at least 14 days prior to the time set for the hearing.

(j) The hearing on appeal shall be limited to the record before the Travel Consumer Restitution Corporation and any relevant evidence that could not have been with reasonable diligence submitted previously to the corporation. The reviewing court shall affirm the decision if it is supported by substantial evidence in light of the entire record. The pretrial discovery procedures described in Section 2019.010 of the Code of Civil Procedure are not permitted, there is no right to trial by jury, and the decision of the superior court shall be appealable by either party. No money may be claimed from or paid by the Travel Consumer Restitution Fund except in accordance with the provisions and procedures set forth

in this article. No provision herein shall limit or otherwise affect those remedies as may be available against persons or entities other than the Travel Consumer Restitution Corporation.

(k) If the claimant prevails in whole or in part on an appeal, the claimant shall not be entitled to an award in excess of the amount of the original claim.

(l) Any claim awarded by the corporation shall be paid promptly by the trustee of the restitution fund when the time for appeal has passed. Any judgment on appeal shall be paid promptly by the trustee of the restitution fund whenever the judgment becomes final. If there should be insufficient funds to pay a claim when otherwise due, claims shall be paid in the order received. If the Travel Consumer Restitution Corporation ceases to operate pursuant to the terms of Section 17550.52, any remaining trust funds shall be allocated on a pro rata basis to claims accruing prior to the corporation ceasing to operate, after payment of outstanding debts and liabilities as provided in Section 17550.57.

(m) A claim shall require a majority of at least three affirmative votes for denial, otherwise it shall be deemed granted.

(n) (1) A director shall not participate in the decision of a claim if the director has a financial interest in the outcome of the decision, has a financial interest in or is employed by the seller of travel that is the subject of the claim, or has any familial relationship or close personal friendship with either the claimant or any owner, officer, director, or manager of the seller of travel that is the subject of the claim.

(2) The director shall disclose to the other directors before a claim is considered all matters that disqualify the director from participating in the decision of the claim as described in paragraph (1).

SEC. 4. Section 47 of the Civil Code is amended to read:

47. A privileged publication or broadcast is one made:

(a) In the proper discharge of an official duty.

(b) In any (1) legislative proceeding, (2) judicial proceeding, (3) in any other official proceeding authorized by law, or (4) in the initiation or course of any other proceeding authorized by law and reviewable pursuant to Chapter 2 (commencing with Section 1084) of Title 1 of Part 3 of the Code of Civil Procedure, except as follows:

(1) An allegation or averment contained in any pleading or affidavit filed in an action for marital dissolution or legal separation made of or concerning a person by or against whom no affirmative relief is prayed in the action shall not be a privileged publication or broadcast as to the person making the allegation or averment within the meaning of this section unless the pleading is verified or affidavit sworn to, and is made without malice, by one having reasonable and probable cause for believing the truth of the allegation or averment and unless the allegation or averment is material and relevant to the issues in the action.

(2) This subdivision does not make privileged any communication made in furtherance of an act of intentional destruction or alteration of physical evidence undertaken for the purpose of depriving a party to litigation of the use of that evidence, whether or not the content of the communication is the subject of a subsequent publication or broadcast which is privileged pursuant to this section. As used in this paragraph, “physical evidence” means evidence specified in Section 250 of the Evidence Code or evidence that is property of any type specified in Chapter 14 (commencing with Section 2031.010) of Title 4 of Part 4 of the Code of Civil Procedure.

(3) This subdivision does not make privileged any communication made in a judicial proceeding knowingly concealing the existence of an insurance policy or policies.

(4) A recorded *lis pendens* is not a privileged publication unless it identifies an action previously filed with a court of competent jurisdiction which affects the title or right of possession of real property, as authorized or required by law.

(c) In a communication, without malice, to a person interested therein, (1) by one who is also interested, or (2) by one who stands in such a relation to the person interested as to afford a reasonable ground for supposing the motive for the communication to be innocent, or (3) who is requested by the person interested to give the information. This subdivision applies to and includes a communication concerning the job performance or qualifications of an applicant for employment, based upon credible evidence, made without malice, by a current or former employer of the applicant to, and upon request of, one whom the employer reasonably believes is a prospective employer of the applicant. This subdivision authorizes a current or former employer, or the employer’s agent, to answer whether or not the employer would rehire a current or former employee. This subdivision shall not apply to a communication concerning the speech or activities of an applicant for employment if the speech or activities are constitutionally protected, or otherwise protected by Section 527.3 of the Code of Civil Procedure or any other provision of law.

(d) (1) By a fair and true report in, or a communication to, a public journal, of (A) a judicial, (B) legislative, or (C) other public official proceeding, or (D) of anything said in the course thereof, or (E) of a verified charge or complaint made by any person to a public official, upon which complaint a warrant has been issued.

(2) Nothing in paragraph (1) shall make privileged any communication to a public journal that does any of the following:

(A) Violates Rule 5-120 of the State Bar Rules of Professional Conduct.

(B) Breaches a court order.

(C) Violates any requirement of confidentiality imposed by law.

(e) By a fair and true report of (1) the proceedings of a public meeting, if the meeting was lawfully convened for a lawful purpose and open to the public, or (2) the publication of the matter complained of was for the public benefit.

SEC. 5. Section 93 of the Code of Civil Procedure is amended to read:

93. (a) The plaintiff has the option to serve case questionnaires with the complaint, using forms approved by the Judicial Council. The questionnaires served shall include a completed copy of the plaintiff's completed case questionnaire, and a blank copy of the defendant's case questionnaire.

(b) Any defendant upon whom a case questionnaire is served shall serve a completed defendant's case questionnaire upon the requesting plaintiff with the answer.

(c) The case questionnaire shall be designed to elicit fundamental information about each party's case, including names and addresses of all witnesses with knowledge of any relevant facts, a list of all documents relevant to the case, a statement of the nature and amount of damages, and information covering insurance coverages, injuries and treating physicians. The Judicial Council shall design and develop forms for case questionnaires.

(d) Approved forms shall be made available by the clerk of the court.

(e) If a party on whom a case questionnaire has been served under subdivision (a) or (b) fails to serve a timely or a complete response to that questionnaire, the party serving the questionnaire may move for an order compelling a response or a further response and for a monetary sanction under Chapter 7 (commencing with Section 2023.010) of Title 4 of Part 4. If a party then fails to obey an order compelling a response or a further response, the court may make those orders that are just, including the imposition of an issue sanction, an evidence sanction, or a terminating sanction under Chapter 7 (commencing with Section 2023.010) of Title 4 of Part 4. In lieu of or in addition to that sanction, the court may impose a monetary sanction under Chapter 7 (commencing with Section 2023.010) of Title 4 of Part 4.

SEC. 6. Section 94 of the Code of Civil Procedure is amended to read:

94. Discovery is permitted only to the extent provided by this section and Section 95. This discovery shall comply with the notice and format requirements of the particular method of discovery, as provided in Title 4 (commencing with Section 2016.010) of Part 4. As to each adverse party, a party may use the following forms of discovery:

(a) Any combination of 35 of the following:

(1) Interrogatories (with no subparts) under Chapter 13 (commencing with Section 2030.010) of Title 4 of Part 4.

(2) Demands to produce documents or things under Chapter 14 (commencing with Section 2031.010) of Title 4 of Part 4.

(3) Requests for admission (with no subparts) under Chapter 16 (commencing with Section 2033.010) of Title 4 of Part 4.

(b) One oral or written deposition under Chapter 9 (commencing with Section 2025.010), Chapter 10 (commencing with Section 2026.010), and Chapter 11 (commencing with Section 2028.010) of Title 4 of Part 4.

(c) Any party may serve on any person a deposition subpoena duces tecum requiring the person served to mail copies of documents, books or records to the party's counsel at a specified address, along with an affidavit complying with Section 1561 of the Evidence Code.

The party who issued the deposition subpoena shall mail a copy of the response to any other party who tenders the reasonable cost of copying it.

(d) Physical and mental examinations under Chapter 15 (commencing with Section 2032.010) of Title 4 of Part 4.

(e) The identity of expert witnesses under Chapter 18 (commencing with Section 2034.010) of Title 4 of Part 4.

SEC. 7. Section 116.310 of the Code of Civil Procedure is amended to read:

116.310. (a) No formal pleading, other than the claim described in Section 116.320 or 116.360, is necessary to initiate a small claims action.

(b) The pretrial discovery procedures described in Section 2019.010 are not permitted in small claims actions.

SEC. 8. Section 116.770 of the Code of Civil Procedure is amended to read:

116.770. (a) The appeal to the superior court shall consist of a new hearing before a judicial officer other than the judicial officer who heard the action in the small claims division.

(b) The hearing on an appeal to the superior court shall be conducted informally. The pretrial discovery procedures described in Section 2019.010 are not permitted, no party has a right to a trial by jury, and no tentative decision or statement of decision is required.

(c) Article 5 (commencing with Section 116.510) on hearings in the small claims court applies in hearings on appeal in the superior court, except that attorneys may participate.

(d) The scope of the hearing shall include the claims of all parties who were parties to the small claims action at the time the notice of appeal was filed. The hearing shall include the claim of a defendant that was heard in the small claims court.

(e) The clerk of the superior court shall schedule the hearing for the earliest available time and shall mail written notice of the hearing to the parties at least 14 days prior to the time set for the hearing.

(f) The Judicial Council may prescribe by rule the practice and procedure on appeal and the time and manner in which the record on appeal shall be prepared and filed.

SEC. 9. Section 437c of the Code of Civil Procedure is amended to read:

437c. (a) Any party may move for summary judgment in any action or proceeding if it is contended that the action has no merit or that there is no defense to the action or proceeding. The motion may be made at any time after 60 days have elapsed since the general appearance in the action or proceeding of each party against whom the motion is directed or at any earlier time after the general appearance that the court, with or without notice and upon good cause shown, may direct. Notice of the motion and supporting papers shall be served on all other parties to the action at least 75 days before the time appointed for hearing. However, if the notice is served by mail, the required 75-day period of notice shall be increased by five days if the place of address is within the State of California, 10 days if the place of address is outside the State of California but within the United States, and 20 days if the place of address is outside the United States, and if the notice is served by facsimile transmission, Express Mail, or another method of delivery providing for overnight delivery, the required 75-day period of notice shall be increased by two court days. The motion shall be heard no later than 30 days before the date of trial, unless the court for good cause orders otherwise. The filing of the motion shall not extend the time within which a party must otherwise file a responsive pleading.

(b) (1) The motion shall be supported by affidavits, declarations, admissions, answers to interrogatories, depositions, and matters of which judicial notice shall or may be taken. The supporting papers shall include a separate statement setting forth plainly and concisely all material facts which the moving party contends are undisputed. Each of the material facts stated shall be followed by a reference to the supporting evidence. The failure to comply with this requirement of a separate statement may in the court's discretion constitute a sufficient ground for denial of the motion.

(2) Any opposition to the motion shall be served and filed not less than 14 days preceding the noticed or continued date of hearing, unless the court for good cause orders otherwise. The opposition, where appropriate, shall consist of affidavits, declarations, admissions, answers to interrogatories, depositions, and matters of which judicial notice shall or may be taken.

(3) The opposition papers shall include a separate statement that responds to each of the material facts contended by the moving party to be undisputed, indicating whether the opposing party agrees or disagrees that those facts are undisputed. The statement also shall set forth plainly and concisely any other material facts that the opposing party contends are disputed. Each material fact contended by the opposing party to be disputed shall be followed by a reference to the supporting evidence. Failure to comply with this requirement of a separate statement may constitute a sufficient ground, in the court's discretion, for granting the motion.

(4) Any reply to the opposition shall be served and filed by the moving party not less than five days preceding the noticed or continued date of hearing, unless the court for good cause orders otherwise.

(5) Evidentiary objections not made at the hearing shall be deemed waived.

(6) Except for subdivision (c) of Section 1005 relating to the method of service of opposition and reply papers, Sections 1005 and 1013, extending the time within which a right may be exercised or an act may be done, do not apply to this section.

(7) Any incorporation by reference of matter in the court's file shall set forth with specificity the exact matter to which reference is being made and shall not incorporate the entire file.

(c) The motion for summary judgment shall be granted if all the papers submitted show that there is no triable issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. In determining whether the papers show that there is no triable issue as to any material fact the court shall consider all of the evidence set forth in the papers, except that to which objections have been made and sustained by the court, and all inferences reasonably deducible from the evidence, except summary judgment may not be granted by the court based on inferences reasonably deducible from the evidence, if contradicted by other inferences or evidence, which raise a triable issue as to any material fact.

(d) Supporting and opposing affidavits or declarations shall be made by any person on personal knowledge, shall set forth admissible evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated in the affidavits or declarations. Any objections based on the failure to comply with the requirements of this subdivision shall be made at the hearing or shall be deemed waived.

(e) If a party is otherwise entitled to a summary judgment pursuant to this section, summary judgment may not be denied on grounds of credibility or for want of cross-examination of witnesses furnishing affidavits or declarations in support of the summary judgment, except that summary judgment may be denied in the discretion of the court,

where the only proof of a material fact offered in support of the summary judgment is an affidavit or declaration made by an individual who was the sole witness to that fact; or where a material fact is an individual's state of mind, or lack thereof, and that fact is sought to be established solely by the individual's affirmation thereof.

(f) (1) A party may move for summary adjudication as to one or more causes of action within an action, one or more affirmative defenses, one or more claims for damages, or one or more issues of duty, if that party contends that the cause of action has no merit or that there is no affirmative defense thereto, or that there is no merit to an affirmative defense as to any cause of action, or both, or that there is no merit to a claim for damages, as specified in Section 3294 of the Civil Code, or that one or more defendants either owed or did not owe a duty to the plaintiff or plaintiffs. A motion for summary adjudication shall be granted only if it completely disposes of a cause of action, an affirmative defense, a claim for damages, or an issue of duty.

(2) A motion for summary adjudication may be made by itself or as an alternative to a motion for summary judgment and shall proceed in all procedural respects as a motion for summary judgment. However, a party may not move for summary judgment based on issues asserted in a prior motion for summary adjudication and denied by the court, unless that party establishes to the satisfaction of the court, newly discovered facts or circumstances or a change of law supporting the issues reasserted in the summary judgment motion.

(g) Upon the denial of a motion for summary judgment, on the ground that there is a triable issue as to one or more material facts, the court shall, by written or oral order, specify one or more material facts raised by the motion as to which the court has determined there exists a triable controversy. This determination shall specifically refer to the evidence proffered in support of and in opposition to the motion which indicates that a triable controversy exists. Upon the grant of a motion for summary judgment, on the ground that there is no triable issue of material fact, the court shall, by written or oral order, specify the reasons for its determination. The order shall specifically refer to the evidence proffered in support of, and if applicable in opposition to, the motion which indicates that no triable issue exists. The court shall also state its reasons for any other determination. The court shall record its determination by court reporter or written order.

(h) If it appears from the affidavits submitted in opposition to a motion for summary judgment or summary adjudication or both that facts essential to justify opposition may exist but cannot, for reasons stated, then be presented, the court shall deny the motion, or order a continuance to permit affidavits to be obtained or discovery to be had or may make any other order as may be just. The application to continue

the motion to obtain necessary discovery may also be made by ex parte motion at any time on or before the date the opposition response to the motion is due.

(i) If, after granting a continuance to allow specified additional discovery, the court determines that the party seeking summary judgment has unreasonably failed to allow the discovery to be conducted, the court shall grant a continuance to permit the discovery to go forward or deny the motion for summary judgment or summary adjudication. This section does not affect or limit the ability of any party to compel discovery under the Civil Discovery Act (Title 4 (commencing with Section 2016.010) of Part 4).

(j) If the court determines at any time that any of the affidavits are presented in bad faith or solely for purposes of delay, the court shall order the party presenting the affidavits to pay the other party the amount of the reasonable expenses which the filing of the affidavits caused the other party to incur. Sanctions may not be imposed pursuant to this subdivision, except on notice contained in a party's papers, or on the court's own noticed motion, and after an opportunity to be heard.

(k) Except when a separate judgment may properly be awarded in the action, no final judgment may be entered on a motion for summary judgment prior to the termination of the action, but the final judgment shall, in addition to any matters determined in the action, award judgment as established by the summary proceeding herein provided for.

(l) In actions which arise out of an injury to the person or to property, if a motion for summary judgment was granted on the basis that the defendant was without fault, no other defendant during trial, over plaintiff's objection, may attempt to attribute fault to or comment on the absence or involvement of the defendant who was granted the motion.

(m) (1) A summary judgment entered under this section is an appealable judgment as in other cases. Upon entry of any order pursuant to this section, except the entry of summary judgment, a party may, within 20 days after service upon him or her of a written notice of entry of the order, petition an appropriate reviewing court for a peremptory writ. If the notice is served by mail, the initial period within which to file the petition shall be increased by five days if the place of address is within the State of California, 10 days if the place of address is outside the State of California but within the United States, and 20 days if the place of address is outside the United States. If the notice is served by facsimile transmission, Express Mail, or another method of delivery providing for overnight delivery, the initial period within which to file the petition shall be increased by two court days. The superior court may, for good cause, and prior to the expiration of the initial period, extend the time for one additional period not to exceed 10 days.

(2) Before a reviewing court affirms an order granting summary judgment or summary adjudication on a ground not relied upon by the trial court, the reviewing court shall afford the parties an opportunity to present their views on the issue by submitting supplemental briefs. The supplemental briefing may include an argument that additional evidence relating to that ground exists, but that the party has not had an adequate opportunity to present the evidence or to conduct discovery on the issue. The court may reverse or remand based upon the supplemental briefing to allow the parties to present additional evidence or to conduct discovery on the issue. If the court fails to allow supplemental briefing, a rehearing shall be ordered upon timely petition of any party.

(n) (1) If a motion for summary adjudication is granted, at the trial of the action, the cause or causes of action within the action, affirmative defense or defenses, claim for damages, or issue or issues of duty as to the motion which has been granted shall be deemed to be established and the action shall proceed as to the cause or causes of action, affirmative defense or defenses, claim for damages, or issue or issues of duty remaining.

(2) In the trial of the action, the fact that a motion for summary adjudication is granted as to one or more causes of action, affirmative defenses, claims for damages, or issues of duty within the action shall not operate to bar any cause of action, affirmative defense, claim for damages, or issue of duty as to which summary adjudication was either not sought or denied.

(3) In the trial of an action, neither a party, nor a witness, nor the court shall comment upon the grant or denial of a motion for summary adjudication to a jury.

(o) A cause of action has no merit if either of the following exists:

(1) One or more of the elements of the cause of action cannot be separately established, even if that element is separately pleaded.

(2) A defendant establishes an affirmative defense to that cause of action.

(p) For purposes of motions for summary judgment and summary adjudication:

(1) A plaintiff or cross-complainant has met his or her burden of showing that there is no defense to a cause of action if that party has proved each element of the cause of action entitling the party to judgment on that cause of action. Once the plaintiff or cross-complainant has met that burden, the burden shifts to the defendant or cross-defendant to show that a triable issue of one or more material facts exists as to that cause of action or a defense thereto. The defendant or cross-defendant may not rely upon the mere allegations or denials of its pleadings to show that a triable issue of material fact exists but, instead, shall set forth the

specific facts showing that a triable issue of material fact exists as to that cause of action or a defense thereto.

(2) A defendant or cross-defendant has met his or her burden of showing that a cause of action has no merit if that party has shown that one or more elements of the cause of action, even if not separately pleaded, cannot be established, or that there is a complete defense to that cause of action. Once the defendant or cross-defendant has met that burden, the burden shifts to the plaintiff or cross-complainant to show that a triable issue of one or more material facts exists as to that cause of action or a defense thereto. The plaintiff or cross-complainant may not rely upon the mere allegations or denials of its pleadings to show that a triable issue of material fact exists but, instead, shall set forth the specific facts showing that a triable issue of material fact exists as to that cause of action or a defense thereto.

(q) This section does not extend the period for trial provided by Section 1170.5.

(r) Subdivisions (a) and (b) do not apply to actions brought pursuant to Chapter 4 (commencing with Section 1159) of Title 3 of Part 3.

(s) For the purposes of this section, a change in law does not include a later enacted statute without retroactive application.

SEC. 10. Section 485.230 of the Code of Civil Procedure is amended to read:

485.230. Where a right to attach order has been issued by the court, a plaintiff may discover, through any means provided for by, and subject to the protections included in, Title 4 (commencing with Section 2016.010) of Part 4, the identity, location, and value of property in which the defendant has an interest.

SEC. 11. Section 708.020 of the Code of Civil Procedure is amended to read:

708.020. (a) The judgment creditor may propound written interrogatories to the judgment debtor, in the manner provided in Chapter 13 (commencing with Section 2030.010) of Title 4 of Part 4, requesting information to aid in enforcement of the money judgment. The judgment debtor shall answer the interrogatories in the manner and within the time provided by Chapter 13 (commencing with Section 2030.010) of Title 4 of Part 4.

(b) The judgment creditor may not serve interrogatories pursuant to this section within 120 days after the judgment debtor has responded to interrogatories previously served pursuant to this section or within 120 days after the judgment debtor has been examined pursuant to Article 2 (commencing with Section 708.110), and the judgment debtor is not required to respond to any interrogatories so served.

(c) Interrogatories served pursuant to this section may be enforced, to the extent practicable, in the same manner as interrogatories in a civil action.

(d) The limitation provided by Chapter 13 (commencing with Section 2030.010) of Title 4 of Part 4 on the number of interrogatories that may be propounded applies to each set of interrogatories propounded from time to time pursuant to this section, but does not apply cumulatively to interrogatories propounded by the judgment creditor to the judgment debtor.

SEC. 12. Section 708.030 of the Code of Civil Procedure is amended to read:

708.030. (a) The judgment creditor may demand that any judgment debtor produce and permit the party making the demand, or someone acting on that party's behalf, to inspect and to copy a document that is in the possession, custody, or control of the party on whom the demand is made in the manner provided in Chapter 14 (commencing with Section 2031.010) of Title 4 of Part 4, if the demand requests information to aid in enforcement of the money judgment. The judgment debtor shall respond and comply with the demand in the manner and within the time provided by Chapter 14 (commencing with Section 2031.010) of Title 4 of Part 4.

(b) The judgment creditor may not serve interrogatories or inspection demands pursuant to this section or Section 708.020 within 120 days after the judgment debtor has responded to the interrogatories or demands previously served pursuant to this section or Section 708.020, or within 120 days after the judgment debtor has been examined pursuant to Article 2 (commencing with Section 708.110), and the judgment debtor is not required to respond to any discovery so served.

(c) Inspection demands served pursuant to this section may be enforced to the extent practicable, in the same manner as inspection demands in a civil action.

SEC. 13. Section 1005 of the Code of Civil Procedure is amended to read:

1005. (a) Written notice shall be given, as prescribed in subdivisions (b) and (c), for the following motions:

(1) Notice of Application and Hearing for Writ of Attachment under Section 484.040.

(2) Notice of Application and Hearing for Claim and Delivery under Section 512.030.

(3) Notice of Hearing for Claim of Exemption under Section 706.105.

(4) Motion to Quash Summons pursuant to subdivision (b) of Section 418.10.

(5) Motion for Determination of Good Faith Settlement pursuant to Section 877.6.

(6) Hearing for Discovery of Peace Officer Personnel Records pursuant to Section 1043 of the Evidence Code.

(7) Notice of Hearing of Third-Party Claim pursuant to Section 720.320.

(8) Motion for an Order to Attend Deposition more than 150 miles from deponent's residence pursuant to Section 2025.260.

(9) Notice of Hearing of Application for Relief pursuant to Section 946.6 of the Government Code.

(10) Motion to Set Aside Default or Default Judgment and for Leave to Defend Actions pursuant to Section 473.5.

(11) Motion to Expunge Notice of Pendency of Action pursuant to Section 405.30.

(12) Motion to Set Aside Default and for Leave to Amend pursuant to Section 585.5.

(13) Any other proceeding under this code in which notice is required and no other time or method is prescribed by law or by court or judge.

(b) Unless otherwise ordered or specifically provided by law, all moving and supporting papers shall be served and filed at least 21 calendar days before the hearing. The moving and supporting papers served shall be a copy of the papers filed or to be filed with the court. However, if the notice is served by mail, the required 21-day period of notice before the hearing shall be increased by five calendar days if the place of mailing and the place of address are within the State of California, 10 calendar days if either the place of mailing or the place of address is outside the State of California but within the United States, and 20 calendar days if either the place of mailing or the place of address is outside the United States, and if the notice is served by facsimile transmission, express mail, or another method of delivery providing for overnight delivery, the required 21-day period of notice before the hearing shall be increased by two calendar days. Section 1013, which extends the time within which a right may be exercised or an act may be done, does not apply to a notice of motion, papers opposing a motion, or reply papers governed by this section. All papers opposing a motion so noticed shall be filed with the court and a copy served on each party at least 10 calendar days, and all reply papers at least five calendar days before the hearing.

The court, or a judge thereof, may prescribe a shorter time.

(c) Notwithstanding any other provision of this section, all papers opposing a motion and all reply papers shall be served by personal delivery, facsimile transmission, express mail, or other means consistent with Sections 1010, 1011, 1012, and 1013, and reasonably calculated to ensure delivery to the other party or parties not later than the close of the

next business day after the time the opposing papers or reply papers, as applicable, are filed. This subdivision applies to the service of opposition and reply papers regarding motions for summary judgment or summary adjudication, in addition to the motions listed in subdivision (a).

The court, or a judge thereof, may prescribe a shorter time.

SEC. 14. Section 1141.16 of the Code of Civil Procedure is amended to read:

1141.16. (a) The determination of the amount in controversy, under subdivision (a) or (b) of Section 1141.11, shall be made by the court and the case referred to arbitration after all named parties have appeared or defaulted. The determination shall be made at a case management conference or based upon review of the written submissions of the parties, as provided in rules adopted by the Judicial Council. The determination shall be based on the total amount of damages, and the judge may not consider questions of liability or comparative negligence or any other defense. At that time the court shall also make a determination whether any prayer for equitable relief is frivolous or insubstantial. The determination of the amount in controversy and whether any prayer for equitable relief is frivolous or insubstantial may not be appealable. No determination pursuant to this section shall be made if all parties stipulate in writing that the amount in controversy exceeds the amount specified in Section 1141.11.

(b) The determination and any stipulation of the amount in controversy shall be without prejudice to any finding on the value of the case by an arbitrator or in a subsequent trial de novo.

(c) Except as provided in this section, the arbitration hearing may not be held until 210 days after the filing of the complaint, or 240 days after the filing of a complaint if the parties have stipulated to a continuance pursuant to subdivision (d) of Section 68616 of the Government Code. A case shall be submitted to arbitration at an earlier time upon any of the following:

- (1) The stipulation of the parties to an earlier arbitration hearing.
- (2) The written request of all plaintiffs, subject to a motion by a defendant for good cause shown to delay the arbitration hearing.
- (3) An order of the court if the parties have stipulated, or the court has ordered under Section 1141.24, that discovery other than that permitted under Chapter 18 (commencing with Section 2034.010) of Title 4 of Part 4 will be permitted after the arbitration award is rendered.

SEC. 15. Section 1141.24 of the Code of Civil Procedure is amended to read:

1141.24. In cases ordered to arbitration pursuant to Section 1141.11, no discovery other than that permitted by Chapter 18 (commencing with Section 2034.010) of Title 4 of Part 4 is permissible after an arbitration

award except by stipulation of the parties or by leave of court upon a showing of good cause.

SEC. 16. Section 1283.05 of the Code of Civil Procedure is amended to read:

1283.05. To the extent provided in Section 1283.1 depositions may be taken and discovery obtained in arbitration proceedings as follows:

(a) After the appointment of the arbitrator or arbitrators, the parties to the arbitration shall have the right to take depositions and to obtain discovery regarding the subject matter of the arbitration, and, to that end, to use and exercise all of the same rights, remedies, and procedures, and be subject to all of the same duties, liabilities, and obligations in the arbitration with respect to the subject matter thereof, as provided in Chapter 2 (commencing with Section 1985) of Title 3 of Part 4, and in Title 4 (commencing with Section 2016.010) of Part 4, as if the subject matter of the arbitration were pending before a superior court of this state in a civil action other than a limited civil case, subject to the limitations as to depositions set forth in subdivision (e) of this section.

(b) The arbitrator or arbitrators themselves shall have power, in addition to the power of determining the merits of the arbitration, to enforce the rights, remedies, procedures, duties, liabilities, and obligations of discovery by the imposition of the same terms, conditions, consequences, liabilities, sanctions, and penalties as can be or may be imposed in like circumstances in a civil action by a superior court of this state under the provisions of this code, except the power to order the arrest or imprisonment of a person.

(c) The arbitrator or arbitrators may consider, determine, and make such orders imposing such terms, conditions, consequences, liabilities, sanctions, and penalties, whenever necessary or appropriate at any time or stage in the course of the arbitration, and such orders shall be as conclusive, final, and enforceable as an arbitration award on the merits, if the making of any such order that is equivalent to an award or correction of an award is subject to the same conditions, if any, as are applicable to the making of an award or correction of an award.

(d) For the purpose of enforcing the duty to make discovery, to produce evidence or information, including books and records, and to produce persons to testify at a deposition or at a hearing, and to impose terms, conditions, consequences, liabilities, sanctions, and penalties upon a party for violation of any such duty, such party shall be deemed to include every affiliate of such party as defined in this section. For such purpose:

(1) The personnel of every such affiliate shall be deemed to be the officers, directors, managing agents, agents, and employees of such party to the same degree as each of them, respectively, bears such status to such affiliate; and

(2) The files, books, and records of every such affiliate shall be deemed to be in the possession and control of, and capable of production by, such party. As used in this section, “affiliate” of the party to the arbitration means and includes any party or person for whose immediate benefit the action or proceeding is prosecuted or defended, or an officer, director, superintendent, member, agent, employee, or managing agent of such party or person.

(e) Depositions for discovery shall not be taken unless leave to do so is first granted by the arbitrator or arbitrators.

SEC. 17. Section 1775.11 of the Code of Civil Procedure is amended to read:

1775.11. Any party who participates in mediation pursuant to Section 1775.3 shall retain the right to obtain discovery to the extent available under the Civil Discovery Act, Title 4 (commencing with Section 2016.010) of Part 4.

SEC. 18. Section 1985.3 of the Code of Civil Procedure is amended to read:

1985.3. (a) For purposes of this section, the following definitions apply:

(1) “Personal records” means the original, any copy of books, documents, other writings, or electronic data pertaining to a consumer and which are maintained by any “witness” which is a physician, dentist, ophthalmologist, optometrist, chiropractor, physical therapist, acupuncturist, podiatrist, veterinarian, veterinary hospital, veterinary clinic, pharmacist, pharmacy, hospital, medical center, clinic, radiology or MRI center, clinical or diagnostic laboratory, state or national bank, state or federal association (as defined in Section 5102 of the Financial Code), state or federal credit union, trust company, anyone authorized by this state to make or arrange loans that are secured by real property, security brokerage firm, insurance company, title insurance company, underwritten title company, escrow agent licensed pursuant to Division 6 (commencing with Section 17000) of the Financial Code or exempt from licensure pursuant to Section 17006 of the Financial Code, attorney, accountant, institution of the Farm Credit System, as specified in Section 2002 of Title 12 of the United States Code, or telephone corporation which is a public utility, as defined in Section 216 of the Public Utilities Code, or psychotherapist, as defined in Section 1010 of the Evidence Code, or a private or public preschool, elementary school, secondary school, or postsecondary school as described in Section 76244 of the Education Code.

(2) “Consumer” means any individual, partnership of five or fewer persons, association, or trust which has transacted business with, or has used the services of, the witness or for whom the witness has acted as agent or fiduciary.

(3) "Subpoenaing party" means the person or persons causing a subpoena duces tecum to be issued or served in connection with any civil action or proceeding pursuant to this code, but shall not include the state or local agencies described in Section 7465 of the Government Code, or any entity provided for under Article VI of the California Constitution in any proceeding maintained before an adjudicative body of that entity pursuant to Chapter 4 (commencing with Section 6000) of Division 3 of the Business and Professions Code.

(4) "Deposition officer" means a person who meets the qualifications specified in Section 2020.420.

(b) Prior to the date called for in the subpoena duces tecum for the production of personal records, the subpoenaing party shall serve or cause to be served on the consumer whose records are being sought a copy of the subpoena duces tecum, of the affidavit supporting the issuance of the subpoena, if any, and of the notice described in subdivision (e), and proof of service as indicated in paragraph (1) of subdivision (c). This service shall be made as follows:

(1) To the consumer personally, or at his or her last known address, or in accordance with Chapter 5 (commencing with Section 1010) of Title 14 of Part 3, or, if he or she is a party, to his or her attorney of record. If the consumer is a minor, service shall be made on the minor's parent, guardian, conservator, or similar fiduciary, or if one of them cannot be located with reasonable diligence, then service shall be made on any person having the care or control of the minor or with whom the minor resides or by whom the minor is employed, and on the minor if the minor is at least 12 years of age.

(2) Not less than 10 days prior to the date for production specified in the subpoena duces tecum, plus the additional time provided by Section 1013 if service is by mail.

(3) At least five days prior to service upon the custodian of the records, plus the additional time provided by Section 1013 if service is by mail.

(c) Prior to the production of the records, the subpoenaing party shall do either of the following:

(1) Serve or cause to be served upon the witness a proof of personal service or of service by mail attesting to compliance with subdivision (b).

(2) Furnish the witness a written authorization to release the records signed by the consumer or by his or her attorney of record. The witness may presume that any attorney purporting to sign the authorization on behalf of the consumer acted with the consent of the consumer, and that any objection to release of records is waived.

(d) A subpoena duces tecum for the production of personal records shall be served in sufficient time to allow the witness a reasonable time,

as provided in Section 2020.410, to locate and produce the records or copies thereof.

(e) Every copy of the subpoena duces tecum and affidavit, if any, served on a consumer or his or her attorney in accordance with subdivision (b) shall be accompanied by a notice, in a typeface designed to call attention to the notice, indicating that (1) records about the consumer are being sought from the witness named on the subpoena; (2) if the consumer objects to the witness furnishing the records to the party seeking the records, the consumer must file papers with the court or serve a written objection as provided in subdivision (g) prior to the date specified for production on the subpoena; and (3) if the party who is seeking the records will not agree in writing to cancel or limit the subpoena, an attorney should be consulted about the consumer's interest in protecting his or her rights of privacy. If a notice of taking of deposition is also served, that other notice may be set forth in a single document with the notice required by this subdivision.

(f) A subpoena duces tecum for personal records maintained by a telephone corporation which is a public utility, as defined in Section 216 of the Public Utilities Code, shall not be valid or effective unless it includes a consent to release, signed by the consumer whose records are requested, as required by Section 2891 of the Public Utilities Code.

(g) Any consumer whose personal records are sought by a subpoena duces tecum and who is a party to the civil action in which this subpoena duces tecum is served may, prior to the date for production, bring a motion under Section 1987.1 to quash or modify the subpoena duces tecum. Notice of the bringing of that motion shall be given to the witness and deposition officer at least five days prior to production. The failure to provide notice to the deposition officer shall not invalidate the motion to quash or modify the subpoena duces tecum but may be raised by the deposition officer as an affirmative defense in any action for liability for improper release of records.

Any other consumer or nonparty whose personal records are sought by a subpoena duces tecum may, prior to the date of production, serve on the subpoenaing party the witness, and the deposition officer, a written objection that cites the specific grounds on which production of the personal records should be prohibited.

No witness or deposition officer shall be required to produce personal records after receipt of notice that the motion has been brought by consumer, or after receipt of a written objection from a nonparty consumer, except upon order of the court in which the action is pending or by agreement of the parties, witnesses, and consumers affected.

The party requesting a consumer's personal records may bring a motion under Section 1987.1 to enforce the subpoena within 20 days of service of the written objection. The motion shall be accompanied by a

declaration showing a reasonable and good faith attempt at informal resolution of the dispute between the party requesting the personal records and the consumer or the consumer's attorney.

(h) Upon good cause shown and provided that the rights of witnesses and consumers are preserved, a subpoenaing party shall be entitled to obtain an order shortening the time for service of a subpoena duces tecum or waiving the requirements of subdivision (b) where due diligence by the subpoenaing party has been shown.

(i) Nothing contained in this section shall be construed to apply to any subpoena duces tecum which does not request the records of any particular consumer or consumers and which requires a custodian of records to delete all information which would in any way identify any consumer whose records are to be produced.

(j) This section shall not apply to proceedings conducted under Division 1 (commencing with Section 50), Division 4 (commencing with Section 3200), Division 4.5 (commencing with Section 6100), or Division 4.7 (commencing with Section 6200) of the Labor Code.

(k) Failure to comply with this section shall be sufficient basis for the witness to refuse to produce the personal records sought by a subpoena duces tecum.

SEC. 19. Section 1985.6 of the Code of Civil Procedure is amended to read:

1985.6. (a) For purposes of this section, the following definitions apply:

(1) "Employment records" means the original or any copy of books, documents, other writings, or electronic data pertaining to the employment of any employee maintained by the current or former employer of the employee.

(2) "Employee" means any individual who is or has been employed by a witness subject to a subpoena duces tecum.

(3) "Subpoenaing party" means the person or persons causing a subpoena duces tecum to be issued or served in connection with any civil action or proceeding, but shall not include the state or local agencies described in Section 7465 of the Government Code, or any entity provided for under Article VI of the California Constitution in any proceeding maintained before an adjudicative body of that entity pursuant to Chapter 4 (commencing with Section 6000) of Division 3 of the Business and Professions Code.

(4) "Deposition officer" means a person who meets the qualifications specified in Section 2020.420.

(b) Prior to the date called for in the subpoena duces tecum of the production of employment records, the subpoenaing party shall serve or cause to be served on the employee whose records are being sought a copy of: the subpoena duces tecum; the affidavit supporting the issuance

of the subpoena, if any; and the notice described in subdivision (e), and proof of service as provided in paragraph (1) of subdivision (c). This service shall be made as follows:

(1) To the employee personally, or at his or her last known address, or in accordance with Chapter 5 (commencing with Section 1010) of Title 14 of Part 3, or, if he or she is a party, to his or her attorney of record. If the employee is a minor, service shall be made on the minor's parent, guardian, conservator, or similar fiduciary, or if one of them cannot be located with reasonable diligence, then service shall be made on any person having the care or control of the minor, or with whom the minor resides, and on the minor if the minor is at least 12 years of age.

(2) Not less than 10 days prior to the date for production specified in the subpoena duces tecum, plus the additional time provided by Section 1013 if service is by mail.

(3) At least five days prior to service upon the custodian of the employment records, plus the additional time provided by Section 1013 if service is by mail.

(c) Prior to the production of the records, the subpoenaing party shall either:

(1) Serve or cause to be served upon the witness a proof of personal service or of service by mail attesting to compliance with subdivision (b).

(2) Furnish the witness a written authorization to release the records signed by the employee or by his or her attorney of record. The witness may presume that the attorney purporting to sign the authorization on behalf of the employee acted with the consent of the employee, and that any objection to release of records is waived.

(d) A subpoena duces tecum for the production of employment records shall be served in sufficient time to allow the witness a reasonable time, as provided in Section 2020.410, to locate and produce the records or copies thereof.

(e) Every copy of the subpoena duces tecum and affidavit served on an employee or his or her attorney in accordance with subdivision (b) shall be accompanied by a notice, in a typeface designed to call attention to the notice, indicating that (1) employment records about the employee are being sought from the witness named on the subpoena; (2) the employment records may be protected by a right of privacy; (3) if the employee objects to the witness furnishing the records to the party seeking the records the employee shall file papers with the court prior to the date specified for production on the subpoena; and (4) if the subpoenaing party does not agree in writing to cancel or limit the subpoena, an attorney should be consulted about the employee's interest in protecting his or her rights of privacy. If a notice of taking of

deposition is also served, that other notice may be set forth in a single document with the notice required by this subdivision.

(f) Any employee whose employment records are sought by a subpoena duces tecum may, prior to the date for production, bring a motion under Section 1987.1 to quash or modify the subpoena duces tecum. Notice of the bringing of that motion shall be given to the witness and the deposition officer at least five days prior to production. The failure to provide notice to the deposition officer shall not invalidate the motion to quash or modify the subpoena duces tecum but may be raised by the deposition officer as an affirmative defense in any action for liability for improper release of records.

Any nonparty employee whose employment records are sought by a subpoena duces tecum may, prior to the date of production, serve on the subpoenaing party, and the deposition officer, the witness a written objection that cites the specific grounds on which production of the employment records should be prohibited.

No witness or deposition officer shall be required to produce employment records after receipt of notice that the motion has been brought by an employee, or after receipt of a written objection from a nonparty employee, except upon order of the court in which the action is pending or by agreement of the parties, witnesses, and employees affected.

The party requesting an employee's employment records may bring a motion under subdivision (c) of Section 1987 to enforce the subpoena within 20 days of service of the written objection. The motion shall be accompanied by a declaration showing a reasonable and good faith attempt at informal resolution of the dispute between the party requesting the employment records and the employee or the employee's attorney.

(g) Upon good cause shown and provided that the rights of witness and employees are preserved, a subpoenaing party shall be entitled to obtain an order shortening the time for service of a subpoena duces tecum or waiving the requirements of subdivision (b) where due diligence by the subpoenaing party has been shown.

(h) Nothing contained in this section shall be construed to apply to any subpoena duces tecum which does not request the records of any particular employee or employees and which requires a custodian of records to delete all information which would in any way identify any employee whose records are to be produced.

(i) This section shall not apply to proceedings conducted under Division 1 (commencing with Section 50), Division 4 (commencing with Section 3200), Division 4.5 (commencing with Section 6100), or Division 4.7 (commencing with Section 6200) of the Labor Code.

(j) Failure to comply with this section shall be sufficient basis for the witness to refuse to produce the employment records sought by subpoena duces tecum.

SEC. 20. Section 1987.5 of the Code of Civil Procedure is amended to read:

1987.5. The service of a subpoena duces tecum is invalid unless at the time of such service a copy of the affidavit upon which the subpoena is based is served on the person served with the subpoena. In the case of a subpoena duces tecum which requires appearance and the production of matters and things at the taking of a deposition, the subpoena shall not be valid unless a copy of the affidavit upon which the subpoena is based and the designation of the materials to be produced, as set forth in the subpoena, is attached to the notice of taking the deposition served upon each party or its attorney as provided in Chapter 3 (commencing with Section 2002) and in Title 4 (commencing with Section 2016.010). If matters and things are produced pursuant to a subpoena duces tecum in violation of this section, any other party to the action may file a motion for, and the court may grant, an order providing appropriate relief, including, but not limited to, exclusion of the evidence affected by the violation, a retaking of the deposition notwithstanding any other limitation on discovery proceedings, or a continuance. The party causing the subpoena to be served shall retain the original affidavit until final judgment in the action, and shall file the affidavit with the court only upon reasonable request by any party or witness affected thereby. This section does not apply to deposition subpoenas commanding only the production of business records for copying under Article 4 (commencing with Section 2020.410) of Chapter 6 of Title 4.

SEC. 21. Section 1991.1 of the Code of Civil Procedure is amended to read:

1991.1. Disobedience to a subpoena requiring attendance of a witness before an officer out of court in a deposition taken pursuant to Title 4 (commencing with Section 2016.010), or refusal to be sworn as a witness at that deposition, may be punished as contempt, as provided in subdivision (e) of Section 2023.030, without the necessity of a prior order of court directing compliance by the witness.

SEC. 22. Article 3 (commencing with Section 2016) of Chapter 3 of Title 3 of Part 4 of the Code of Civil Procedure is repealed.

SEC. 23. Title 4 (commencing with Section 2016.010) is added to Part 4 of the Code of Civil Procedure, to read:

TITLE 4. CIVIL DISCOVERY ACT

CHAPTER 1. GENERAL PROVISIONS

2016.010. This title may be cited as the “Civil Discovery Act.”

2016.020. As used in this title:

(a) “Action” includes a civil action and a special proceeding of a civil nature.

(b) “Court” means the trial court in which the action is pending, unless otherwise specified.

(c) “Document” and “writing” mean a writing, as defined in Section 250 of the Evidence Code.

2016.030. Unless the court orders otherwise, the parties may by written stipulation modify the procedures provided by this title for any method of discovery permitted under Section 2019.010.

2016.040. A meet and confer declaration in support of a motion shall state facts showing a reasonable and good faith attempt at an informal resolution of each issue presented by the motion.

2016.050. Section 1013 applies to any method of discovery or service of a motion provided for in this title.

2016.060. When the last day to perform or complete any act provided for in this title falls on a Saturday, Sunday, or holiday as specified in Section 10, the time limit is extended until the next day that is not a Saturday, Sunday, or holiday.

2016.070. This title applies to discovery in aid of enforcement of a money judgment only to the extent provided in Article 1 (commencing with Section 708.010) of Chapter 6 of Title 9 of Part 2.

CHAPTER 2. SCOPE OF DISCOVERY

Article 1. General Provisions

2017.010. Unless otherwise limited by order of the court in accordance with this title, any party may obtain discovery regarding any matter, not privileged, that is relevant to the subject matter involved in the pending action or to the determination of any motion made in that action, if the matter either is itself admissible in evidence or appears reasonably calculated to lead to the discovery of admissible evidence. Discovery may relate to the claim or defense of the party seeking discovery or of any other party to the action. Discovery may be obtained of the identity and location of persons having knowledge of any discoverable matter, as well as of the existence, description, nature, custody, condition, and location of any document, tangible thing, or land or other property.

2017.020. (a) The court shall limit the scope of discovery if it determines that the burden, expense, or intrusiveness of that discovery clearly outweighs the likelihood that the information sought will lead to the discovery of admissible evidence. The court may make this determination pursuant to a motion for protective order by a party or other affected person. This motion shall be accompanied by a meet and confer declaration under Section 2016.040.

(b) The court shall impose a monetary sanction under Chapter 7 (commencing with Section 2023.010) against any party, person, or attorney who unsuccessfully makes or opposes a motion for a protective order, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

Article 2. Scope of Discovery in Specific Contexts

2017.210. A party may obtain discovery of the existence and contents of any agreement under which any insurance carrier may be liable to satisfy in whole or in part a judgment that may be entered in the action or to indemnify or reimburse for payments made to satisfy the judgment. This discovery may include the identity of the carrier and the nature and limits of the coverage. A party may also obtain discovery as to whether that insurance carrier is disputing the agreement's coverage of the claim involved in the action, but not as to the nature and substance of that dispute. Information concerning the insurance agreement is not by reason of disclosure admissible in evidence at trial.

2017.220. (a) In any civil action alleging conduct that constitutes sexual harassment, sexual assault, or sexual battery, any party seeking discovery concerning the plaintiff's sexual conduct with individuals other than the alleged perpetrator shall establish specific facts showing that there is good cause for that discovery, and that the matter sought to be discovered is relevant to the subject matter of the action and reasonably calculated to lead to the discovery of admissible evidence. This showing shall be made by a noticed motion, accompanied by a meet and confer declaration under Section 2016.040, and shall not be made or considered by the court at an ex parte hearing.

(b) The court shall impose a monetary sanction under Chapter 7 (commencing with Section 2023.010) against any party, person, or attorney who unsuccessfully makes or opposes a motion for discovery under subdivision (a), unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

Article 3. Violation of the Elder Abuse and Dependent Adult Civil Protection Act

2017.310. (a) Notwithstanding any other provision of law, it is the policy of the State of California that confidential settlement agreements are disfavored in any civil action the factual foundation for which establishes a cause of action for a violation of the Elder Abuse and Dependent Adult Civil Protection Act (Chapter 11(commencing with Section 15600) of Part 3 of Division 9 of the Welfare and Institutions Code).

(b) Provisions of a confidential settlement agreement described in subdivision (a) may not be recognized or enforced by the court absent a showing of any of the following:

(1) The information is privileged under existing law.

(2) The information is not evidence of abuse of an elder or dependent adult, as described in Sections 15610.30, 15610.57, and 15610.63 of the Welfare and Institutions Code.

(3) The party seeking to uphold the confidentiality of the information has demonstrated that there is a substantial probability that prejudice will result from the disclosure and that the party's interest in the information cannot be adequately protected through redaction.

(c) Nothing in paragraph (1), (2), or (3) of subdivision (b) permits the sealing or redacting of a defendant's name in any information made available to the public.

(d) Except as expressly provided in this section, nothing in this section is intended to alter, modify, or amend existing law.

(e) Nothing in this section may be deemed to prohibit the entry or enforcement of that part of a confidentiality agreement, settlement agreement, or stipulated agreement between the parties that requires the nondisclosure of the amount of any money paid in a settlement of a claim.

(f) Nothing in this section applies to or affects an action for professional negligence against a health care provider.

2017.320. (a) In any civil action the factual foundation for which establishes a cause of action for a violation of the Elder Abuse and Dependent Adult Civil Protection Act (Chapter 11 (commencing with Section 15600) of Part 3 of Division 9 of the Welfare and Institutions Code), any information that is acquired through discovery and is protected from disclosure by a stipulated protective order shall remain subject to the protective order, except for information that is evidence of abuse of an elder or dependent adult as described in Sections 15610.30, 15610.57, and 15610.63 of the Welfare and Institutions Code.

(b) In that instance, after redacting information in the document that is not evidence of abuse of an elder or dependent adult as described in

Sections 15610.30, 15610.57, and 15610.63 of the Welfare and Institutions Code, a party may file that particularized information with the court. The party proposing to file the information shall offer to meet and confer with the party from whom the information was obtained at least one week prior to filing that information with the court.

(c) The filing party shall give concurrent notice of the filing with the court and its basis to the party from whom the information was obtained.

(d) Any filed information submitted to the court shall remain confidential under any protective order for 30 days after the filing and shall be part of the public court record thereafter, unless an affected party petitions the court and shows good cause for a court protective order.

(e) The burden of showing good cause shall be on the party seeking the court protective order.

(f) A stipulated protective order may not be recognized or enforced by the court to prevent disclosure of information filed with the court pursuant to subdivision (b), absent a showing of any of the following:

(1) The information is privileged under existing law.

(2) The information is not evidence of abuse of an elder or dependent adult as described in Sections 15610.30, 15610.57, and 15610.63 of the Welfare and Institutions Code.

(3) The party seeking to uphold the confidentiality of the information has demonstrated that there is a substantial probability that prejudice will result from the disclosure and that the party's interest in the information cannot be adequately protected through redaction.

(g) If the court denies the petition for a court protective order, it shall redact any part of the filed information it finds is not evidence of abuse of an elder or dependent adult, as described in Sections 15610.30, 15610.57, and 15610.63 of the Welfare and Institutions Code. Nothing in this subdivision or in paragraph (1), (2), or (3) of subdivision (f) permits the sealing or redacting of a defendant's name in any information made available to the public.

(h) Nothing in this section applies to or affects an action for professional negligence against a health care provider.

CHAPTER 3. USE OF TECHNOLOGY IN CONDUCTING DISCOVERY IN A COMPLEX CASE

2017.710. Subject to the findings required by Section 2017.730 and the purpose of permitting and encouraging cost-effective and efficient discovery, "technology," as used in this chapter, includes, but is not limited to, telephone, e-mail, CD-ROM, Internet Web sites, electronic documents, electronic document depositories, Internet depositions and storage, videoconferencing, and other electronic technology that may be used to improve communication and the discovery process.

2017.720. (a) Nothing in this chapter diminishes the rights and duties of the parties regarding discovery, privileges, procedural rights, or substantive law.

(b) Nothing in this chapter modifies the requirement for use of a stenographic court reporter as provided in Section 2025.330. The rules, standards, and guidelines adopted pursuant to this chapter shall be consistent with the requirement of Section 2025.330 that deposition testimony be taken stenographically unless the parties agree or the court orders otherwise.

(c) Nothing in this chapter modifies or affects in any way the process used for the selection of a stenographic court reporter.

2017.730. (a) Pursuant to a noticed motion, a court may enter an order authorizing the use of technology in conducting discovery in any of the following:

(1) A case designated as complex under Section 19 of the Judicial Administration Standards.

(2) A case ordered to be coordinated under Chapter 3 (commencing with Section 404) of Title 4 of Part 2.

(3) An exceptional case exempt from case disposition time goals under Article 5 (commencing with Section 68600) of Chapter 2 of Title 8 of the Government Code.

(4) A case assigned to Plan 3 under paragraph (3) of subdivision (b) of Section 2105 of the California Rules of Court.

(b) In a case other than one listed in subdivision (a), the parties may stipulate to the entry of an order authorizing the use of technology in conducting discovery.

(c) An order authorizing the use of technology in conducting discovery may be made only upon the express findings of the court or stipulation of the parties that the procedures adopted in the order meet all of the following criteria:

(1) They promote cost-effective and efficient discovery or motions relating thereto.

(2) They do not impose or require an undue expenditure of time or money.

(3) They do not create an undue economic burden or hardship on any person.

(4) They promote open competition among vendors and providers of services in order to facilitate the highest quality service at the lowest reasonable cost to the litigants.

(5) They do not require the parties or counsel to purchase exceptional or unnecessary services, hardware, or software.

(d) Pursuant to an order authorizing the use of technology in conducting discovery, discovery may be conducted and maintained in electronic media and by electronic communication. The court may enter

orders prescribing procedures relating to the use of electronic technology in conducting discovery, including orders for service of discovery requests and responses, service and presentation of motions, conduct of discovery in electronic media, and production, storage, and access to information in electronic form.

(e) The Judicial Council may promulgate rules, standards, and guidelines relating to electronic discovery and the use of electronic discovery data and documents in court proceedings.

2017.740. (a) If a service provider is to be used and compensated by the parties in discovery under this chapter, the court shall appoint the person or organization agreed on by the parties and approve the contract agreed on by the parties and the service provider. If the parties do not agree on selection of a service provider, each party shall submit to the court up to three nominees for appointment, together with a contract acceptable to the nominee. The court shall appoint a service provider from among the nominees. The court may condition this appointment on the acceptance of modifications in the terms of the contract. If no nominations are received from any of the parties, the court shall appoint one or more service providers.

(b) Pursuant to a noticed motion at any time and on a showing of good cause, the court may order the removal of the service provider or vacate any agreement between the parties and the service provider, or both, effective as of the date of the order. The continued service of the service provider shall be subject to review periodically, as agreed by the parties and the service provider, or annually if they do not agree. Any disputes involving the contract or the duties, rights, and obligations of the parties or the service provider may be determined on a noticed motion in the action.

CHAPTER 4. ATTORNEY WORK PRODUCT

2018.010. For purposes of this chapter, “client” means a “client” as defined in Section 951 of the Evidence Code.

2018.020. It is the policy of the state to do both of the following:

(a) Preserve the rights of attorneys to prepare cases for trial with that degree of privacy necessary to encourage them to prepare their cases thoroughly and to investigate not only the favorable but the unfavorable aspects of those cases.

(b) Prevent attorneys from taking undue advantage of their adversary’s industry and efforts.

2018.030. (a) A writing that reflects an attorney’s impressions, conclusions, opinions, or legal research or theories is not discoverable under any circumstances.

(b) The work product of an attorney, other than a writing described in subdivision (a), is not discoverable unless the court determines that denial of discovery will unfairly prejudice the party seeking discovery in preparing that party's claim or defense or will result in an injustice.

2018.040. This chapter is intended to be a restatement of existing law relating to protection of work product. It is not intended to expand or reduce the extent to which work product is discoverable under existing law in any action.

2018.050. Notwithstanding Section 2018.040, when a lawyer is suspected of knowingly participating in a crime or fraud, there is no protection of work product under this chapter in any official investigation by a law enforcement agency or proceeding or action brought by a public prosecutor in the name of the people of the State of California if the services of the lawyer were sought or obtained to enable or aid anyone to commit or plan to commit a crime or fraud.

2018.060. Nothing in this chapter is intended to limit an attorney's ability to request an in camera hearing as provided for in People v. Superior Court (Laff) (2001) 25 Cal.4th 703.

2018.070. (a) The State Bar may discover the work product of an attorney against whom disciplinary charges are pending when it is relevant to issues of breach of duty by the lawyer and requisite client approval has been granted.

(b) Where requested and for good cause, discovery under this section shall be subject to a protective order to ensure the confidentiality of the work product except for its use by the State Bar in disciplinary investigations and its consideration under seal in State Bar Court proceedings.

(c) For purposes of this chapter, whenever a client has initiated a complaint against an attorney, the requisite client approval shall be deemed to have been granted.

2018.080. In an action between an attorney and a client or a former client of the attorney, no work product privilege under this chapter exists if the work product is relevant to an issue of breach by the attorney of a duty to the client arising out of the attorney-client relationship.

CHAPTER 5. METHODS AND SEQUENCE OF DISCOVERY

Article 1. General Provisions

2019.010. Any party may obtain discovery by one or more of the following methods:

- (a) Oral and written depositions.
- (b) Interrogatories to a party.
- (c) Inspections of documents, things, and places.

- (d) Physical and mental examinations.
- (e) Requests for admissions.
- (f) Simultaneous exchanges of expert trial witness information.

2019.020. (a) Except as otherwise provided by a rule of the Judicial Council, a local court rule, or a local uniform written policy, the methods of discovery may be used in any sequence, and the fact that a party is conducting discovery, whether by deposition or another method, shall not operate to delay the discovery of any other party.

(b) Notwithstanding subdivision (a), on motion and for good cause shown, the court may establish the sequence and timing of discovery for the convenience of parties and witnesses and in the interests of justice.

2019.030. (a) The court shall restrict the frequency or extent of use of a discovery method provided in Section 2019.010 if it determines either of the following:

(1) The discovery sought is unreasonably cumulative or duplicative, or is obtainable from some other source that is more convenient, less burdensome, or less expensive.

(2) The selected method of discovery is unduly burdensome or expensive, taking into account the needs of the case, the amount in controversy, and the importance of the issues at stake in the litigation.

(b) The court may make these determinations pursuant to a motion for a protective order by a party or other affected person. This motion shall be accompanied by a meet and confer declaration under Section 2016.040.

(c) The court shall impose a monetary sanction under Chapter 7 (commencing with Section 2023.010) against any party, person, or attorney who unsuccessfully makes or opposes a motion for a protective order, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

Article 2. Methods and Sequence of Discovery in Specific Contexts

2019.210. In any action alleging the misappropriation of a trade secret under the Uniform Trade Secrets Act (Title 5 (commencing with Section 3426) of Part 1 of Division 4 of the Civil Code), before commencing discovery relating to the trade secret, the party alleging the misappropriation shall identify the trade secret with reasonable particularity subject to any orders that may be appropriate under Section 3426.5 of the Civil Code.

CHAPTER 6. NONPARTY DISCOVERY

Article 1. General Provisions

2020.010. (a) Any of the following methods may be used to obtain discovery within the state from a person who is not a party to the action in which the discovery is sought:

(1) An oral deposition under Chapter 9 (commencing with Section 2025.010).

(2) A written deposition under Chapter 11 (commencing with Section 2028.010).

(3) A deposition for production of business records and things under Article 4 (commencing with Section 2020.410) or Article 5 (commencing with Section 2020.510).

(b) Except as provided in subdivision (a) of Section 2025.280, the process by which a nonparty is required to provide discovery is a deposition subpoena.

2020.020. A deposition subpoena may command any of the following:

(a) Only the attendance and the testimony of the deponent, under Article 3 (commencing with Section 2020.310).

(b) Only the production of business records for copying, under Article 4 (commencing with Section 2020.410).

(c) The attendance and the testimony of the deponent, as well as the production of business records, other documents, and tangible things, under Article 5 (commencing with Section 2020.510).

2020.030. Except as modified in this chapter, the provisions of Chapter 2 (commencing with Section 1985) of Title 3 of Part 4 of this code, and of Article 4 (commencing with Section 1560) of Chapter 2 of Division 11 of the Evidence Code, apply to a deposition subpoena.

Article 2. Procedures Applicable to All Types of Deposition Subpoenas

2020.210. (a) The clerk of the court in which the action is pending shall issue a deposition subpoena signed and sealed, but otherwise in blank, to a party requesting it, who shall fill it in before service.

(b) Instead of a court-issued deposition subpoena, an attorney of record for any party may sign and issue a deposition subpoena. A deposition subpoena issued under this subdivision need not be sealed. A copy may be served on the nonparty, and the attorney may retain the original.

2020.220. (a) Subject to subdivision (c) of Section 2020.410, service of a deposition subpoena shall be effected a sufficient time in

advance of the deposition to provide the deponent a reasonable opportunity to locate and produce any designated business records, documents, and tangible things, as described in Article 4 (commencing with Section 2020.410), and, where personal attendance is commanded, a reasonable time to travel to the place of deposition.

(b) Any person may serve the subpoena by personal delivery of a copy of it as follows:

(1) If the deponent is a natural person, to that person.

(2) If the deponent is an organization, to any officer, director, custodian of records, or to any agent or employee authorized by the organization to accept service of a subpoena.

(c) Personal service of any deposition subpoena is effective to require all of the following of any deponent who is a resident of California at the time of service:

(1) Personal attendance and testimony, if the subpoena so specifies.

(2) Any specified production, inspection, testing, and sampling.

(3) The deponent's attendance at a court session to consider any issue arising out of the deponent's refusal to be sworn, or to answer any question, or to produce specified items, or to permit inspection or photocopying, if the subpoena so specifies, or specified testing and sampling of the items produced.

2020.230. (a) If a deposition subpoena requires the personal attendance of the deponent, under Article 3 (commencing with Section 2020.310) or Article 5 (commencing with Section 2020.510), the party noticing the deposition shall pay to the deponent in cash or by check the same witness fee and mileage required by Chapter 1 (commencing with Section 68070) of Title 8 of the Government Code for attendance and testimony before the court in which the action is pending. This payment, whether or not demanded by the deponent, shall be made, at the option of the party noticing the deposition, either at the time of service of the deposition subpoena, or at the time the deponent attends for the taking of testimony.

(b) Service of a deposition subpoena that does not require the personal attendance of a custodian of records or other qualified person, under Article 4 (commencing with Section 2020.410), shall be accompanied, whether or not demanded by the deponent, by a payment in cash or by check of the witness fee required by paragraph (6) of subdivision (b) of Section 1563 of the Evidence Code.

2020.240. A deponent who disobeys a deposition subpoena in any manner described in subdivision (c) of Section 2020.220 may be punished for contempt under Chapter 7 (commencing with Section 2023.010) without the necessity of a prior order of court directing compliance by the witness. The deponent is also subject to the forfeiture and the payment of damages set forth in Section 1992.

Article 3. Subpoena Commanding Only Attendance and Testimony
of the Deponent

2020.310. The following rules apply to a deposition subpoena that commands only the attendance and the testimony of the deponent:

(a) The subpoena shall specify the time when and the place where the deponent is commanded to attend the deposition.

(b) The subpoena shall set forth a summary of all of the following:

(1) The nature of a deposition.

(2) The rights and duties of the deponent.

(3) The penalties for disobedience of a deposition subpoena, as described in Section 2020.240.

(c) If the deposition will be recorded using audio or video technology by, or at the direction of, the noticing party under Section 2025.340, the subpoena shall state that it will be recorded in that manner.

(d) If the deposition testimony will be conducted using instant visual display, the subpoena shall state that it will be conducted in that manner.

(e) If the deponent is an organization, the subpoena shall describe with reasonable particularity the matters on which examination is requested. The subpoena shall also advise the organization of its duty to make the designation of employees or agents who will attend the deposition, as described in Section 2025.230.

Article 4. Subpoena Commanding Only Production of Business
Records for Copying

2020.410. (a) A deposition subpoena that commands only the production of business records for copying shall designate the business records to be produced either by specifically describing each individual item or by reasonably particularizing each category of item.

(b) Notwithstanding subdivision (a), specific information identifiable only to the deponent's records system, like a policy number or the date when a consumer interacted with the witness, is not required.

(c) A deposition subpoena that commands only the production of business records for copying need not be accompanied by an affidavit or declaration showing good cause for the production of the business records designated in it. It shall be directed to the custodian of those records or another person qualified to certify the records. It shall command compliance in accordance with Section 2020.430 on a date that is no earlier than 20 days after the issuance, or 15 days after the service, of the deposition subpoena, whichever date is later.

(d) If, under Section 1985.3 or 1985.6, the one to whom the deposition subpoena is directed is a witness, and the business records described in the deposition subpoena are personal records pertaining to

a consumer, the service of the deposition subpoena shall be accompanied either by a copy of the proof of service of the notice to the consumer described in subdivision (e) of Section 1985.3, or subdivision (b) of Section 1985.6, as applicable, or by the consumer's written authorization to release personal records described in paragraph (2) of subdivision (c) of Section 1985.3, or paragraph (2) of subdivision (c) of Section 1985.6, as applicable.

2020.420. The officer for a deposition seeking discovery only of business records for copying under this article shall be a professional photocopier registered under Chapter 20 (commencing with Section 22450) of Division 8 of the Business and Professions Code, or a person exempted from the registration requirements of that chapter under Section 22451 of the Business and Professions Code. This deposition officer shall not be financially interested in the action, or a relative or employee of any attorney of the parties. Any objection to the qualifications of the deposition officer is waived unless made before the date of production or as soon thereafter as the ground for that objection becomes known or could be discovered by reasonable diligence.

2020.430. (a) Except as provided in subdivision (e), if a deposition subpoena commands only the production of business records for copying, the custodian of the records or other qualified person shall, in person, by messenger, or by mail, deliver both of the following only to the deposition officer specified in the subpoena:

- (1) A true, legible, and durable copy of the records.
- (2) An affidavit in compliance with Section 1561 of the Evidence Code.

(b) If the delivery required by subdivision (a) is made to the office of the deposition officer, the records shall be enclosed, sealed, and directed as described in subdivision (c) of Section 1560 of the Evidence Code.

(c) If the delivery required by subdivision (a) is made at the office of the business whose records are the subject of the deposition subpoena, the custodian of those records or other qualified person shall do one of the following:

(1) Permit the deposition officer specified in the deposition subpoena to make a copy of the originals of the designated business records during normal business hours, as defined in subdivision (e) of Section 1560 of the Evidence Code.

(2) Deliver to the deposition officer a true, legible, and durable copy of the records on receipt of payment in cash or by check, by or on behalf of the party serving the deposition subpoena, of the reasonable costs of preparing that copy, together with an itemized statement of the cost of preparation, as determined under subdivision (b) of Section 1563 of the Evidence Code. This copy need not be delivered in a sealed envelope.

(d) Unless the parties, and if the records are those of a consumer as defined in Section 1985.3 or 1985.6, the consumer, stipulate to an earlier date, the custodian of the records shall not deliver to the deposition officer the records that are the subject of the deposition subpoena prior to the date and time specified in the deposition subpoena. The following legend shall appear in boldface type on the deposition subpoena immediately following the date and time specified for production: “Do not release the requested records to the deposition officer prior to the date and time stated above.”

(e) This section does not apply if the subpoena directs the deponent to make the records available for inspection or copying by the subpoenaing party’s attorney or a representative of that attorney at the witness’ business address under subdivision (e) of Section 1560 of the Evidence Code.

(f) The provisions of Section 1562 of the Evidence Code concerning the admissibility of the affidavit of the custodian or other qualified person apply to a deposition subpoena served under this article.

2020.440. Promptly on or after the deposition date and after the receipt or the making of a copy of business records under this article, the deposition officer shall provide that copy to the party at whose instance the deposition subpoena was served, and a copy of those records to any other party to the action who then or subsequently, within a period of six months following the settlement of the case, notifies the deposition officer that the party desires to purchase a copy of those records.

Article 5. Subpoena Commanding Both Production of Business Records and Attendance and Testimony of the Deponent

2020.510. (a) A deposition subpoena that commands the attendance and the testimony of the deponent, as well as the production of business records, documents, and tangible things, shall:

(1) Comply with the requirements of Section 2020.310.

(2) Designate the business records, documents, and tangible things to be produced either by specifically describing each individual item or by reasonably particularizing each category of item.

(3) Specify any testing or sampling that is being sought.

(b) A deposition subpoena under subdivision (a) need not be accompanied by an affidavit or declaration showing good cause for the production of the documents and things designated.

(c) Where, as described in Section 1985.3, the person to whom the deposition subpoena is directed is a witness, and the business records described in the deposition subpoena are personal records pertaining to a consumer, the service of the deposition subpoena shall be accompanied either by a copy of the proof of service of the notice to the consumer

described in subdivision (e) of Section 1985.3, or by the consumer's written authorization to release personal records described in paragraph (2) of subdivision (c) of Section 1985.3.

CHAPTER 7. SANCTIONS

2023.010. Misuses of the discovery process include, but are not limited to, the following:

(a) Persisting, over objection and without substantial justification, in an attempt to obtain information or materials that are outside the scope of permissible discovery.

(b) Using a discovery method in a manner that does not comply with its specified procedures.

(c) Employing a discovery method in a manner or to an extent that causes unwarranted annoyance, embarrassment, or oppression, or undue burden and expense.

(d) Failing to respond or to submit to an authorized method of discovery.

(e) Making, without substantial justification, an unmeritorious objection to discovery.

(f) Making an evasive response to discovery.

(g) Disobeying a court order to provide discovery.

(h) Making or opposing, unsuccessfully and without substantial justification, a motion to compel or to limit discovery.

(i) Failing to confer in person, by telephone, or by letter with an opposing party or attorney in a reasonable and good faith attempt to resolve informally any dispute concerning discovery, if the section governing a particular discovery motion requires the filing of a declaration stating facts showing that an attempt at informal resolution has been made.

2023.020. Notwithstanding the outcome of the particular discovery motion, the court shall impose a monetary sanction ordering that any party or attorney who fails to confer as required pay the reasonable expenses, including attorney's fees, incurred by anyone as a result of that conduct.

2023.030. To the extent authorized by the chapter governing any particular discovery method or any other provision of this title, the court, after notice to any affected party, person, or attorney, and after opportunity for hearing, may impose the following sanctions against anyone engaging in conduct that is a misuse of the discovery process:

(a) The court may impose a monetary sanction ordering that one engaging in the misuse of the discovery process, or any attorney advising that conduct, or both pay the reasonable expenses, including attorney's fees, incurred by anyone as a result of that conduct. The court may also

impose this sanction on one unsuccessfully asserting that another has engaged in the misuse of the discovery process, or on any attorney who advised that assertion, or on both. If a monetary sanction is authorized by any provision of this title, the court shall impose that sanction unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

(b) The court may impose an issue sanction ordering that designated facts shall be taken as established in the action in accordance with the claim of the party adversely affected by the misuse of the discovery process. The court may also impose an issue sanction by an order prohibiting any party engaging in the misuse of the discovery process from supporting or opposing designated claims or defenses.

(c) The court may impose an evidence sanction by an order prohibiting any party engaging in the misuse of the discovery process from introducing designated matters in evidence.

(d) The court may impose a terminating sanction by one of the following orders:

(1) An order striking out the pleadings or parts of the pleadings of any party engaging in the misuse of the discovery process.

(2) An order staying further proceedings by that party until an order for discovery is obeyed.

(3) An order dismissing the action, or any part of the action, of that party.

(4) An order rendering a judgment by default against that party.

(e) The court may impose a contempt sanction by an order treating the misuse of the discovery process as a contempt of court.

2023.040. A request for a sanction shall, in the notice of motion, identify every person, party, and attorney against whom the sanction is sought, and specify the type of sanction sought. The notice of motion shall be supported by a memorandum of points and authorities, and accompanied by a declaration setting forth facts supporting the amount of any monetary sanction sought.

CHAPTER 8. TIME FOR COMPLETION OF DISCOVERY

2024.010. As used in this chapter, discovery is considered completed on the day a response is due or on the day a deposition begins.

2024.020. (a) Except as otherwise provided in this chapter, any party shall be entitled as a matter of right to complete discovery proceedings on or before the 30th day, and to have motions concerning discovery heard on or before the 15th day, before the date initially set for the trial of the action.

(b) Except as provided in Section 2024.050, a continuance or postponement of the trial date does not operate to reopen discovery proceedings.

2024.030. Any party shall be entitled as a matter of right to complete discovery proceedings pertaining to a witness identified under Chapter 18 (commencing with Section 2034.010) on or before the 15th day, and to have motions concerning that discovery heard on or before the 10th day, before the date initially set for the trial of the action.

2024.040. (a) The time limit on completing discovery in an action to be arbitrated under Chapter 2.5 (commencing with Section 1141.10) of Title 3 of Part 3 is subject to Judicial Council Rule. After an award in a case ordered to judicial arbitration, completion of discovery is limited by Section 1141.24.

(b) This chapter does not apply to either of the following:

(1) Summary proceedings for obtaining possession of real property governed by Chapter 4 (commencing with Section 1159) of Title 3 of Part 3. Except as provided in Sections 2024.050 and 2025.060, discovery in these proceedings shall be completed on or before the fifth day before the date set for trial.

(2) Eminent domain proceedings governed by Title 7 (commencing with Section 1230.010) of Part 3.

2024.050. (a) On motion of any party, the court may grant leave to complete discovery proceedings, or to have a motion concerning discovery heard, closer to the initial trial date, or to reopen discovery after a new trial date has been set. This motion shall be accompanied by a meet and confer declaration under Section 2016.040.

(b) In exercising its discretion to grant or deny this motion, the court shall take into consideration any matter relevant to the leave requested, including, but not limited to, the following:

(1) The necessity and the reasons for the discovery.

(2) The diligence or lack of diligence of the party seeking the discovery or the hearing of a discovery motion, and the reasons that the discovery was not completed or that the discovery motion was not heard earlier.

(3) Any likelihood that permitting the discovery or hearing the discovery motion will prevent the case from going to trial on the date set, or otherwise interfere with the trial calendar, or result in prejudice to any other party.

(4) The length of time that has elapsed between any date previously set, and the date presently set, for the trial of the action.

(c) The court shall impose a monetary sanction under Chapter 7 (commencing with Section 2023.010) against any party, person, or attorney who unsuccessfully makes or opposes a motion to extend or to reopen discovery, unless it finds that the one subject to the sanction acted

with substantial justification or that other circumstances make the imposition of the sanction unjust.

2024.060. Parties to an action may, with the consent of any party affected by it, enter into an agreement to extend the time for the completion of discovery proceedings or for the hearing of motions concerning discovery, or to reopen discovery after a new date for trial of the action has been set. This agreement may be informal, but it shall be confirmed in a writing that specifies the extended date. In no event shall this agreement require a court to grant a continuance or postponement of the trial of the action.

CHAPTER 9. ORAL DEPOSITION INSIDE CALIFORNIA

Article 1. General Provisions

2025.010. Any party may obtain discovery within the scope delimited by Chapter 2 (commencing with Section 2017.010) and Chapter 3 (commencing with Section 2017.710), and subject to the restrictions set forth in Chapter 5 (commencing with Section 2019.010), by taking in California the oral deposition of any person, including any party to the action. The person deposed may be a natural person, an organization such as a public or private corporation, a partnership, an association, or a governmental agency.

Article 2. Deposition Notice

2025.210. Subject to Sections 2025.270 and 2025.610, an oral deposition may be taken as follows:

(a) The defendant may serve a deposition notice without leave of court at any time after that defendant has been served or has appeared in the action, whichever occurs first.

(b) The plaintiff may serve a deposition notice without leave of court on any date that is 20 days after the service of the summons on, or appearance by, any defendant. On motion with or without notice, the court, for good cause shown, may grant to a plaintiff leave to serve a deposition notice on an earlier date.

2025.220. (a) A party desiring to take the oral deposition of any person shall give notice in writing. The deposition notice shall state all of the following:

- (1) The address where the deposition will be taken.
- (2) The date of the deposition, selected under Section 2025.270, and the time it will commence.
- (3) The name of each deponent, and the address and telephone number, if known, of any deponent who is not a party to the action. If

the name of the deponent is not known, the deposition notice shall set forth instead a general description sufficient to identify the person or particular class to which the person belongs.

(4) The specification with reasonable particularity of any materials or category of materials to be produced by the deponent.

(5) Any intention by the party noticing the deposition to record the testimony by audio or video technology, in addition to recording the testimony by the stenographic method as required by Section 2025.330 and any intention to record the testimony by stenographic method through the instant visual display of the testimony. If the deposition will be conducted using instant visual display, a copy of the deposition notice shall also be given to the deposition officer. Any offer to provide the instant visual display of the testimony or to provide rough draft transcripts to any party which is accepted prior to, or offered at, the deposition shall also be made by the deposition officer at the deposition to all parties in attendance. Any party or attorney requesting the provision of the instant visual display of the testimony, or rough draft transcripts, shall pay the reasonable cost of those services, which may be no greater than the costs charged to any other party or attorney.

(6) Any intention to reserve the right to use at trial a video recording of the deposition testimony of a treating or consulting physician or of any expert witness under subdivision (d) of Section 2025.620. In this event, the operator of the video camera shall be a person who is authorized to administer an oath, and shall not be financially interested in the action or be a relative or employee of any attorney of any of the parties.

(b) Notwithstanding subdivision (a), where under Article 4 (commencing with Section 2020.410) only the production by a nonparty of business records for copying is desired, a copy of the deposition subpoena shall serve as the notice of deposition.

2025.230. If the deponent named is not a natural person, the deposition notice shall describe with reasonable particularity the matters on which examination is requested. In that event, the deponent shall designate and produce at the deposition those of its officers, directors, managing agents, employees, or agents who are most qualified to testify on its behalf as to those matters to the extent of any information known or reasonably available to the deponent.

2025.240. (a) The party who prepares a notice of deposition shall give the notice to every other party who has appeared in the action. The deposition notice, or the accompanying proof of service, shall list all the parties or attorneys for parties on whom it is served.

(b) Where, as defined in subdivision (a) of Section 1985.3, the party giving notice of the deposition is a subpoenaing party, and the deponent is a witness commanded by a deposition subpoena to produce personal

records of a consumer, the subpoenaing party shall serve on that consumer all of the following:

- (1) A notice of the deposition.
 - (2) The notice of privacy rights specified in subdivision (e) of Section 1985.3 and in Section 1985.6.
 - (3) A copy of the deposition subpoena.
- (c) If the attendance of the deponent is to be compelled by service of a deposition subpoena under Chapter 6 (commencing with Section 2020.010), an identical copy of that subpoena shall be served with the deposition notice.

2025.250. (a) Unless the court orders otherwise under Section 2025.260, the deposition of a natural person, whether or not a party to the action, shall be taken at a place that is, at the option of the party giving notice of the deposition, either within 75 miles of the deponent's residence, or within the county where the action is pending and within 150 miles of the deponent's residence.

(b) The deposition of an organization that is a party to the action shall be taken at a place that is, at the option of the party giving notice of the deposition, either within 75 miles of the organization's principal executive or business office in California, or within the county where the action is pending and within 150 miles of that office.

(c) Unless the organization consents to a more distant place, the deposition of any other organization shall be taken within 75 miles of the organization's principal executive or business office in California. If the organization has not designated a principal executive or business office in California, the deposition shall be taken at a place that is, at the option of the party giving notice of the deposition, either within the county where the action is pending, or within 75 miles of any executive or business office in California of the organization.

2025.260. (a) A party desiring to take the deposition of a natural person who is a party to the action or an officer, director, managing agent, or employee of a party may make a motion for an order that the deponent attend for deposition at a place that is more distant than that permitted under Section 2025.250. This motion shall be accompanied by a meet and confer declaration under Section 2016.040.

(b) In exercising its discretion to grant or deny this motion, the court shall take into consideration any factor tending to show whether the interests of justice will be served by requiring the deponent's attendance at that more distant place, including, but not limited to, the following:

- (1) Whether the moving party selected the forum.
- (2) Whether the deponent will be present to testify at the trial of the action.
- (3) The convenience of the deponent.

(4) The feasibility of conducting the deposition by written questions under Chapter 11 (commencing with Section 2028.010), or of using a discovery method other than a deposition.

(5) The number of depositions sought to be taken at a place more distant than that permitted under Section 2025.250.

(6) The expense to the parties of requiring the deposition to be taken within the distance permitted under Section 2025.250.

(7) The whereabouts of the deponent at the time for which the deposition is scheduled.

(c) The order may be conditioned on the advancement by the moving party of the reasonable expenses and costs to the deponent for travel to the place of deposition.

(d) The court shall impose a monetary sanction under Chapter 7 (commencing with Section 2023.010) against any party, person, or attorney who unsuccessfully makes or opposes a motion to increase the travel limits for a party deponent, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

2025.270. (a) An oral deposition shall be scheduled for a date at least 10 days after service of the deposition notice. If, as defined in subdivision (a) of Section 1985.3, the party giving notice of the deposition is a subpoenaing party, and the deponent is a witness commanded by a deposition subpoena to produce personal records of a consumer, the deposition shall be scheduled for a date at least 20 days after issuance of that subpoena.

(b) Notwithstanding subdivision (a), in an unlawful detainer action an oral deposition shall be scheduled for a date at least five days after service of the deposition notice, but not later than five days before trial.

(c) On motion or ex parte application of any party or deponent, for good cause shown, the court may shorten or extend the time for scheduling a deposition, or may stay its taking until the determination of a motion for a protective order under Section 2025.420.

2025.280. (a) The service of a deposition notice under Section 2025.240 is effective to require any deponent who is a party to the action or an officer, director, managing agent, or employee of a party to attend and to testify, as well as to produce any document or tangible thing for inspection and copying.

(b) The attendance and testimony of any other deponent, as well as the production by the deponent of any document or tangible thing for inspection and copying, requires the service on the deponent of a deposition subpoena under Chapter 6 (commencing with Section 2020.010).

Article 3. Conduct of Deposition

2025.310. (a) A person may take, and any person other than the deponent may attend, a deposition by telephone or other remote electronic means.

(b) The court may expressly provide that a nonparty deponent may appear at the deposition by telephone if it finds there is good cause and no prejudice to any party. A party deponent shall appear at the deposition in person and be in the presence of the deposition officer.

(c) The procedures to implement this section shall be established by court order in the specific action or proceeding or by the California Rules of Court.

2025.320. Except as provided in Section 2020.420, the deposition shall be conducted under the supervision of an officer who is authorized to administer an oath and is subject to all of the following requirements:

(a) The officer shall not be financially interested in the action and shall not be a relative or employee of any attorney of the parties, or of any of the parties.

(b) Services and products offered or provided by the deposition officer or the entity providing the services of the deposition officer to any party or to any party's attorney or third party who is financing all or part of the action shall be offered to all parties or their attorneys attending the deposition. No service or product may be offered or provided by the deposition officer or by the entity providing the services of the deposition officer to any party or any party's attorney or third party who is financing all or part of the action unless the service or product is offered or provided to all parties or their attorneys attending the deposition. All services and products offered or provided shall be made available at the same time to all parties or their attorneys.

(c) The deposition officer or the entity providing the services of the deposition officer shall not provide to any party or any party's attorney or third party who is financing all or part of the action any service or product consisting of the deposition officer's notations or comments regarding the demeanor of any witness, attorney, or party present at the deposition. The deposition officer or entity providing the services of the deposition officer shall not collect any personal identifying information about the witness as a service or product to be provided to any party or third party who is financing all or part of the action.

(d) Upon the request of any party or any party's attorney attending a deposition, any party or any party's attorney attending the deposition shall enter in the record of the deposition all services and products made available to that party or party's attorney or third party who is financing all or part of the action by the deposition officer or by the entity providing the services of the deposition officer. A party in the action who is not

represented by an attorney shall be informed by the noticing party or the party's attorney that the unrepresented party may request this statement.

(e) Any objection to the qualifications of the deposition officer is waived unless made before the deposition begins or as soon thereafter as the ground for that objection becomes known or could be discovered by reasonable diligence.

(f) Violation of this section by any person may result in a civil penalty of up to five thousand dollars (\$5,000) imposed by a court of competent jurisdiction.

2025.330. (a) The deposition officer shall put the deponent under oath.

(b) Unless the parties agree or the court orders otherwise, the testimony, as well as any stated objections, shall be taken stenographically.

(c) The party noticing the deposition may also record the testimony by audio or video technology if the notice of deposition stated an intention also to record the testimony by either of those methods, or if all the parties agree that the testimony may also be recorded by either of those methods. Any other party, at that party's expense, may make a simultaneous audio or video record of the deposition, provided that the other party promptly, and in no event less than three calendar days before the date for which the deposition is scheduled, serves a written notice of this intention to make an audio or video record of the deposition testimony on the party or attorney who noticed the deposition, on all other parties or attorneys on whom the deposition notice was served under Section 2025.240, and on any deponent whose attendance is being compelled by a deposition subpoena under Chapter 6 (commencing with Section 2020.010). If this notice is given three calendar days before the deposition date, it shall be made by personal service under Section 1011.

(d) Examination and cross-examination of the deponent shall proceed as permitted at trial under the provisions of the Evidence Code.

(e) In lieu of participating in the oral examination, parties may transmit written questions in a sealed envelope to the party taking the deposition for delivery to the deposition officer, who shall unseal the envelope and propound them to the deponent after the oral examination has been completed.

2025.340. If a deposition is being recorded by means of audio or video technology by, or at the direction of, any party, the following procedure shall be observed:

(a) The area used for recording the deponent's oral testimony shall be suitably large, adequately lighted, and reasonably quiet.

(b) The operator of the recording equipment shall be competent to set up, operate, and monitor the equipment in the manner prescribed in this section. Except as provided in subdivision (c), the operator may be an

employee of the attorney taking the deposition unless the operator is also the deposition officer.

(c) If a video recording of deposition testimony is to be used under subdivision (d) of Section 2025.620, the operator of the recording equipment shall be a person who is authorized to administer an oath, and shall not be financially interested in the action or be a relative or employee of any attorney of any of the parties, unless all parties attending the deposition agree on the record to waive these qualifications and restrictions.

(d) Services and products offered or provided by the deposition officer or the entity providing the services of the deposition officer to any party or to any party's attorney or third party who is financing all or part of the action shall be offered or provided to all parties or their attorneys attending the deposition. No service or product may be offered or provided by the deposition officer or by the entity providing the services of the deposition officer to any party or any party's attorney or third party who is financing all or part of the action unless the service or product is offered or provided to all parties or their attorneys attending the deposition. All services and products offered or provided shall be made available at the same time to all parties or their attorneys.

(e) The deposition officer or the entity providing the services of the deposition officer shall not provide to any party or any other person or entity any service or product consisting of the deposition officer's notations or comments regarding the demeanor of any witness, attorney, or party present at the deposition. The deposition officer or the entity providing the services of the deposition officer shall not collect any personal identifying information about the witness as a service or product to be provided to any party or third party who is financing all or part of the action.

(f) Upon the request of any party or any party's attorney attending a deposition, any party or any party's attorney attending the deposition shall enter in the record of the deposition all services and products made available to that party or party's attorney or third party who is financing all or part of the action by the deposition officer or by the entity providing the services of the deposition officer. A party in the action who is not represented by an attorney shall be informed by the noticing party that the unrepresented party may request this statement.

(g) The operator shall not distort the appearance or the demeanor of participants in the deposition by the use of camera or sound recording techniques.

(h) The deposition shall begin with an oral or written statement on camera or on the audio recording that includes the operator's name and business address, the name and business address of the operator's employer, the date, time, and place of the deposition, the caption of the

case, the name of the deponent, a specification of the party on whose behalf the deposition is being taken, and any stipulations by the parties.

(i) Counsel for the parties shall identify themselves on camera or on the audio recording.

(j) The oath shall be administered to the deponent on camera or on the audio recording.

(k) If the length of a deposition requires the use of more than one unit of tape or electronic storage, the end of each unit and the beginning of each succeeding unit shall be announced on camera or on the audio recording.

(l) At the conclusion of a deposition, a statement shall be made on camera or on the audio recording that the deposition is ended and shall set forth any stipulations made by counsel concerning the custody of the audio or video recording and the exhibits, or concerning other pertinent matters.

(m) A party intending to offer an audio or video recording of a deposition in evidence under Section 2025.620 shall notify the court and all parties in writing of that intent and of the parts of the deposition to be offered. That notice shall be given within sufficient time for objections to be made and ruled on by the judge to whom the case is assigned for trial or hearing, and for any editing of the recording. Objections to all or part of the deposition shall be made in writing. The court may permit further designations of testimony and objections as justice may require. With respect to those portions of an audio or video record of deposition testimony that are not designated by any party or that are ruled to be objectionable, the court may order that the party offering the recording of the deposition at the trial or hearing suppress those portions, or that an edited version of the deposition recording be prepared for use at the trial or hearing. The original audio or video record of the deposition shall be preserved unaltered. If no stenographic record of the deposition testimony has previously been made, the party offering an audio or video recording of that testimony under Section 2025.620 shall accompany that offer with a stenographic transcript prepared from that recording.

Article 4. Objections, Sanctions, Protective Orders, Motions to Compel, and Suspension of Depositions

2025.410. (a) Any party served with a deposition notice that does not comply with Article 2 (commencing with Section 2025.210) waives any error or irregularity unless that party promptly serves a written objection specifying that error or irregularity at least three calendar days prior to the date for which the deposition is scheduled, on the party

seeking to take the deposition and any other attorney or party on whom the deposition notice was served.

(b) If an objection is made three calendar days before the deposition date, the objecting party shall make personal service of that objection pursuant to Section 1011 on the party who gave notice of the deposition. Any deposition taken after the service of a written objection shall not be used against the objecting party under Section 2025.620 if the party did not attend the deposition and if the court determines that the objection was a valid one.

(c) In addition to serving this written objection, a party may also move for an order staying the taking of the deposition and quashing the deposition notice. This motion shall be accompanied by a meet and confer declaration under Section 2016.040. The taking of the deposition is stayed pending the determination of this motion.

(d) The court shall impose a monetary sanction under Chapter 7 (commencing with Section 2023.010) against any party, person, or attorney who unsuccessfully makes or opposes a motion to quash a deposition notice, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

2025.420. (a) Before, during, or after a deposition, any party, any deponent, or any other affected natural person or organization may promptly move for a protective order. The motion shall be accompanied by a meet and confer declaration under Section 2016.040.

(b) The court, for good cause shown, may make any order that justice requires to protect any party, deponent, or other natural person or organization from unwarranted annoyance, embarrassment, or oppression, or undue burden and expense. This protective order may include, but is not limited to, one or more of the following directions:

- (1) That the deposition not be taken at all.
- (2) That the deposition be taken at a different time.

(3) That a video recording of the deposition testimony of a treating or consulting physician or of any expert witness, intended for possible use at trial under subdivision (d) of Section 2025.620, be postponed until the moving party has had an adequate opportunity to prepare, by discovery deposition of the deponent, or other means, for cross-examination.

(4) That the deposition be taken at a place other than that specified in the deposition notice, if it is within a distance permitted by Sections 2025.250 and 2025.260.

(5) That the deposition be taken only on certain specified terms and conditions.

(6) That the deponent's testimony be taken by written, instead of oral, examination.

(7) That the method of discovery be interrogatories to a party instead of an oral deposition.

(8) That the testimony be recorded in a manner different from that specified in the deposition notice.

(9) That certain matters not be inquired into.

(10) That the scope of the examination be limited to certain matters.

(11) That all or certain of the writings or tangible things designated in the deposition notice not be produced, inspected, or copied.

(12) That designated persons, other than the parties to the action and their officers and counsel, be excluded from attending the deposition.

(13) That a trade secret or other confidential research, development, or commercial information not be disclosed or be disclosed only to specified persons or only in a specified way.

(14) That the parties simultaneously file specified documents enclosed in sealed envelopes to be opened as directed by the court.

(15) That the deposition be sealed and thereafter opened only on order of the court.

(16) That examination of the deponent be terminated. If an order terminates the examination, the deposition shall not thereafter be resumed, except on order of the court.

(c) If the motion for a protective order is denied in whole or in part, the court may order that the deponent provide or permit the discovery against which protection was sought on those terms and conditions that are just.

(d) The court shall impose a monetary sanction under Chapter 7 (commencing with Section 2023.010) against any party, person, or attorney who unsuccessfully makes or opposes a motion for a protective order, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

2025.430. If the party giving notice of a deposition fails to attend or proceed with it, the court shall impose a monetary sanction under Chapter 7 (commencing with Section 2023.010) against that party, or the attorney for that party, or both, and in favor of any party attending in person or by attorney, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

2025.440. (a) If a deponent does not appear for a deposition because the party giving notice of the deposition failed to serve a required deposition subpoena, the court shall impose a monetary sanction under Chapter 7 (commencing with Section 2023.010) against that party, or the attorney for that party, or both, in favor of any other party who, in person or by attorney, attended at the time and place specified in the deposition notice in the expectation that the deponent's

testimony would be taken, unless the court finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

(b) If a deponent on whom a deposition subpoena has been served fails to attend a deposition or refuses to be sworn as a witness, the court may impose on the deponent the sanctions described in Section 2020.240.

2025.450. (a) If, after service of a deposition notice, a party to the action or an officer, director, managing agent, or employee of a party, or a person designated by an organization that is a party under Section 2025.230, without having served a valid objection under Section 2025.410, fails to appear for examination, or to proceed with it, or to produce for inspection any document or tangible thing described in the deposition notice, the party giving the notice may move for an order compelling the deponent's attendance and testimony, and the production for inspection of any document or tangible thing described in the deposition notice.

(b) A motion under subdivision (a) shall comply with both of the following:

(1) The motion shall set forth specific facts showing good cause justifying the production for inspection of any document or tangible thing described in the deposition notice.

(2) The motion shall be accompanied by a meet and confer declaration under Section 2016.040, or, when the deponent fails to attend the deposition and produce the documents or things described in the deposition notice, by a declaration stating that the petitioner has contacted the deponent to inquire about the nonappearance.

(c) (1) If a motion under subdivision (a) is granted, the court shall impose a monetary sanction under Chapter 7 (commencing with Section 2023.010) in favor of the party who noticed the deposition and against the deponent or the party with whom the deponent is affiliated, unless the court finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

(2) On motion of any other party who, in person or by attorney, attended at the time and place specified in the deposition notice in the expectation that the deponent's testimony would be taken, the court shall impose a monetary sanction under Chapter 7 (commencing with Section 2023.010) in favor of that party and against the deponent or the party with whom the deponent is affiliated, unless the court finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

(d) If that party or party-affiliated deponent then fails to obey an order compelling attendance, testimony, and production, the court may make

those orders that are just, including the imposition of an issue sanction, an evidence sanction, or a terminating sanction under Chapter 7 (commencing with Section 2023.010) against that party deponent or against the party with whom the deponent is affiliated. In lieu of, or in addition to, this sanction, the court may impose a monetary sanction under Chapter 7 (commencing with Section 2023.010) against that deponent or against the party with whom that party deponent is affiliated, and in favor of any party who, in person or by attorney, attended in the expectation that the deponent's testimony would be taken pursuant to that order.

2025.460. (a) The protection of information from discovery on the ground that it is privileged or that it is a protected work product under Chapter 4 (commencing with Section 2018.010) is waived unless a specific objection to its disclosure is timely made during the deposition.

(b) Errors and irregularities of any kind occurring at the oral examination that might be cured if promptly presented are waived unless a specific objection to them is timely made during the deposition. These errors and irregularities include, but are not limited to, those relating to the manner of taking the deposition, to the oath or affirmation administered, to the conduct of a party, attorney, deponent, or deposition officer, or to the form of any question or answer. Unless the objecting party demands that the taking of the deposition be suspended to permit a motion for a protective order under Sections 2025.420 and 2025.470, the deposition shall proceed subject to the objection.

(c) Objections to the competency of the deponent, or to the relevancy, materiality, or admissibility at trial of the testimony or of the materials produced are unnecessary and are not waived by failure to make them before or during the deposition.

(d) If a deponent fails to answer any question or to produce any document or tangible thing under the deponent's control that is specified in the deposition notice or a deposition subpoena, the party seeking that answer or production may adjourn the deposition or complete the examination on other matters without waiving the right at a later time to move for an order compelling that answer or production under Section 2025.480.

2025.470. The deposition officer may not suspend the taking of testimony without the stipulation of all parties present unless any party attending the deposition, including the deponent, demands that the deposition officer suspend taking the testimony to enable that party or deponent to move for a protective order under Section 2025.420 on the ground that the examination is being conducted in bad faith or in a manner that unreasonably annoys, embarrasses, or oppresses that deponent or party.

2025.480. (a) If a deponent fails to answer any question or to produce any document or tangible thing under the deponent's control that is specified in the deposition notice or a deposition subpoena, the party seeking discovery may move the court for an order compelling that answer or production.

(b) This motion shall be made no later than 60 days after the completion of the record of the deposition, and shall be accompanied by a meet and confer declaration under Section 2016.040.

(c) Notice of this motion shall be given to all parties, and to the deponent either orally at the examination, or by subsequent service in writing. If the notice of the motion is given orally, the deposition officer shall direct the deponent to attend a session of the court at the time specified in the notice.

(d) Not less than five days prior to the hearing on this motion, the moving party shall lodge with the court a certified copy of any parts of the stenographic transcript of the deposition that are relevant to the motion. If a deposition is recorded by audio or video technology, the moving party is required to lodge a certified copy of a transcript of any parts of the deposition that are relevant to the motion.

(e) If the court determines that the answer or production sought is subject to discovery, it shall order that the answer be given or the production be made on the resumption of the deposition.

(f) The court shall impose a monetary sanction under Chapter 7 (commencing with Section 2023.010) against any party, person, or attorney who unsuccessfully makes or opposes a motion to compel answer or production, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

(g) If a deponent fails to obey an order entered under this section, the failure may be considered a contempt of court. In addition, if the disobedient deponent is a party to the action or an officer, director, managing agent, or employee of a party, the court may make those orders that are just against the disobedient party, or against the party with whom the disobedient deponent is affiliated, including the imposition of an issue sanction, an evidence sanction, or a terminating sanction under Chapter 7 (commencing with Section 2023.010). In lieu of, or in addition to, this sanction, the court may impose a monetary sanction under Chapter 7 (commencing with Section 2023.010) against that party deponent or against any party with whom the deponent is affiliated.

Article 5. Transcript or Recording

2025.510. (a) Unless the parties agree otherwise, the testimony at any deposition recorded by stenographic means shall be transcribed.

(b) The party noticing the deposition shall bear the cost of that transcription, unless the court, on motion and for good cause shown, orders that the cost be borne or shared by another party.

(c) Notwithstanding subdivision (b) of Section 2025.320, any other party or the deponent, at the expense of that party or deponent, may obtain a copy of the transcript.

(d) If the deposition officer receives a request from a party for an original or a copy of the deposition transcript, or any portion thereof, and the full or partial transcript will be available to that party prior to the time the original or copy would be available to any other party, the deposition officer shall immediately notify all other parties attending the deposition of the request, and shall, upon request by any party other than the party making the original request, make that copy of the full or partial deposition transcript available to all parties at the same time.

(e) Stenographic notes of depositions shall be retained by the reporter for a period of not less than eight years from the date of the deposition, where no transcript is produced, and not less than one year from the date on which the transcript is produced. Those notes may be either on paper or electronic media, as long as it allows for satisfactory production of a transcript at any time during the periods specified.

(f) At the request of any other party to the action, including a party who did not attend the taking of the deposition testimony, any party who records or causes the recording of that testimony by means of audio or video technology shall promptly do both of the following:

(1) Permit that other party to hear the audio recording or to view the video recording.

(2) Furnish a copy of the audio or video recording to that other party on receipt of payment of the reasonable cost of making that copy of the recording.

(g) If the testimony at the deposition is recorded both stenographically, and by audio or video technology, the stenographic transcript is the official record of that testimony for the purpose of the trial and any subsequent hearing or appeal.

2025.520. (a) If the deposition testimony is stenographically recorded, the deposition officer shall send written notice to the deponent and to all parties attending the deposition when the original transcript of the testimony for each session of the deposition is available for reading, correcting, and signing, unless the deponent and the attending parties agree on the record that the reading, correcting, and signing of the transcript of the testimony will be waived or that the reading, correcting, and signing of a transcript of the testimony will take place after the entire deposition has been concluded or at some other specific time.

(b) For 30 days following each notice under subdivision (a), unless the attending parties and the deponent agree on the record or otherwise

in writing to a longer or shorter time period, the deponent may change the form or the substance of the answer to a question, and may either approve the transcript of the deposition by signing it, or refuse to approve the transcript by not signing it.

(c) Alternatively, within this same period, the deponent may change the form or the substance of the answer to any question and may approve or refuse to approve the transcript by means of a letter to the deposition officer signed by the deponent which is mailed by certified or registered mail with return receipt requested. A copy of that letter shall be sent by first-class mail to all parties attending the deposition.

(d) For good cause shown, the court may shorten the 30-day period for making changes, approving, or refusing to approve the transcript.

(e) The deposition officer shall indicate on the original of the transcript, if the deponent has not already done so at the office of the deposition officer, any action taken by the deponent and indicate on the original of the transcript, the deponent's approval of, or failure or refusal to approve, the transcript. The deposition officer shall also notify in writing the parties attending the deposition of any changes which the deponent timely made in person.

(f) If the deponent fails or refuses to approve the transcript within the allotted period, the deposition shall be given the same effect as though it had been approved, subject to any changes timely made by the deponent.

(g) Notwithstanding subdivision (f), on a reasonable motion to suppress the deposition, accompanied by a meet and confer declaration under Section 2016.040, the court may determine that the reasons given for the failure or refusal to approve the transcript require rejection of the deposition in whole or in part.

(h) The court shall impose a monetary sanction under Chapter 7 (commencing with Section 2023.010) against any party, person, or attorney who unsuccessfully makes or opposes a motion to suppress a deposition under this section, unless the court finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

2025.530. (a) If there is no stenographic transcription of the deposition, the deposition officer shall send written notice to the deponent and to all parties attending the deposition that the audio or video recording made by, or at the direction of, any party, is available for review, unless the deponent and all these parties agree on the record to waive the hearing or viewing of the audio or video recording of the testimony.

(b) For 30 days following a notice under subdivision (a), the deponent, either in person or by signed letter to the deposition officer, may change the substance of the answer to any question.

(c) The deposition officer shall set forth in a writing to accompany the recording any changes made by the deponent, as well as either the deponent's signature identifying the deposition as the deponent's own, or a statement of the deponent's failure to supply the signature, or to contact the officer within the period prescribed by subdivision (b).

(d) When a deponent fails to contact the officer within the period prescribed by subdivision (b), or expressly refuses by a signature to identify the deposition as the deponent's own, the deposition shall be given the same effect as though signed.

(e) Notwithstanding subdivision (d), on a reasonable motion to suppress the deposition, accompanied by a meet and confer declaration under Section 2016.040, the court may determine that the reasons given for the refusal to sign require rejection of the deposition in whole or in part.

(f) The court shall impose a monetary sanction under Chapter 7 (commencing with Section 2023.010) against any party, person, or attorney who unsuccessfully makes or opposes a motion to suppress a deposition under this section, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

2025.540. (a) The deposition officer shall certify on the transcript of the deposition, or in a writing accompanying an audio or video record of deposition testimony, as described in Section 2025.530, that the deponent was duly sworn and that the transcript or recording is a true record of the testimony given.

(b) When prepared as a rough draft transcript, the transcript of the deposition may not be certified and may not be used, cited, or transcribed as the certified transcript of the deposition proceedings. The rough draft transcript may not be cited or used in any way or at any time to rebut or contradict the certified transcript of deposition proceedings as provided by the deposition officer.

2025.550. (a) The certified transcript of a deposition shall not be filed with the court. Instead, the deposition officer shall securely seal that transcript in an envelope or package endorsed with the title of the action and marked: "Deposition of (here insert name of deponent)," and shall promptly transmit it to the attorney for the party who noticed the deposition. This attorney shall store it under conditions that will protect it against loss, destruction, or tampering.

(b) The attorney to whom the transcript of a deposition is transmitted shall retain custody of it until six months after final disposition of the action. At that time, the transcript may be destroyed, unless the court, on motion of any party and for good cause shown, orders that the transcript be preserved for a longer period.

2025.560. (a) An audio or video record of deposition testimony made by, or at the direction of, any party, including a certified tape made by an operator qualified under subdivisions (b) to (f), inclusive, of Section 2025.340, shall not be filed with the court. Instead, the operator shall retain custody of that record and shall store it under conditions that will protect it against loss, destruction, or tampering, and preserve as far as practicable the quality of the recording and the integrity of the testimony and images it contains.

(b) At the request of any party to the action, including a party who did not attend the taking of the deposition testimony, or at the request of the deponent, that operator shall promptly do both of the following:

(1) Permit the one making the request to hear or to view the recording on receipt of payment of a reasonable charge for providing the facilities for hearing or viewing the recording.

(2) Furnish a copy of the audio or video recording to the one making the request on receipt of payment of the reasonable cost of making that copy of the recording.

(c) The attorney or operator who has custody of an audio or video record of deposition testimony made by, or at the direction of, any party, shall retain custody of it until six months after final disposition of the action. At that time, the audio or video recording may be destroyed or erased, unless the court, on motion of any party and for good cause shown, orders that the recording be preserved for a longer period.

2025.570. (a) Notwithstanding subdivision (b) of Section 2025.320, unless the court issues an order to the contrary, a copy of the transcript of the deposition testimony made by, or at the direction of, any party, or an audio or video recording of the deposition testimony, if still in the possession of the deposition officer, shall be made available by the deposition officer to any person requesting a copy, on payment of a reasonable charge set by the deposition officer.

(b) If a copy is requested from the deposition officer, the deposition officer shall mail a notice to all parties attending the deposition and to the deponent at the deponent's last known address advising them of all of the following:

(1) The copy is being sought.

(2) The name of the person requesting the copy.

(3) The right to seek a protective order under Section 2025.420.

(c) If a protective order is not served on the deposition officer within 30 days of the mailing of the notice, the deposition officer shall make the copy available to the person requesting the copy.

(d) This section shall apply only to recorded testimony taken at depositions occurring on or after January 1, 1998.

Article 6. Post-Deposition Procedures

2025.610. (a) Once any party has taken the deposition of any natural person, including that of a party to the action, neither the party who gave, nor any other party who has been served with a deposition notice pursuant to Section 2025.240 may take a subsequent deposition of that deponent.

(b) Notwithstanding subdivision (a), for good cause shown, the court may grant leave to take a subsequent deposition, and the parties, with the consent of any deponent who is not a party, may stipulate that a subsequent deposition be taken.

(c) This section does not preclude taking one subsequent deposition of a natural person who has previously been examined under either or both of the following circumstances:

(1) The person was examined as a result of that person's designation to testify on behalf of an organization under Section 2025.230.

(2) The person was examined pursuant to a court order under Section 485.230, for the limited purpose of discovering pursuant to Section 485.230 the identity, location, and value of property in which the deponent has an interest.

(d) This section does not authorize the taking of more than one subsequent deposition for the limited purpose of Section 485.230.

2025.620. At the trial or any other hearing in the action, any part or all of a deposition may be used against any party who was present or represented at the taking of the deposition, or who had due notice of the deposition and did not serve a valid objection under Section 2025.410, so far as admissible under the rules of evidence applied as though the deponent were then present and testifying as a witness, in accordance with the following provisions:

(a) Any party may use a deposition for the purpose of contradicting or impeaching the testimony of the deponent as a witness, or for any other purpose permitted by the Evidence Code.

(b) An adverse party may use for any purpose, a deposition of a party to the action, or of anyone who at the time of taking the deposition was an officer, director, managing agent, employee, agent, or designee under Section 2025.230 of a party. It is not ground for objection to the use of a deposition of a party under this subdivision by an adverse party that the deponent is available to testify, has testified, or will testify at the trial or other hearing.

(c) Any party may use for any purpose the deposition of any person or organization, including that of any party to the action, if the court finds any of the following:

(1) The deponent resides more than 150 miles from the place of the trial or other hearing.

(2) The deponent, without the procurement or wrongdoing of the proponent of the deposition for the purpose of preventing testimony in open court, is any of the following:

(A) Exempted or precluded on the ground of privilege from testifying concerning the matter to which the deponent's testimony is relevant.

(B) Disqualified from testifying.

(C) Dead or unable to attend or testify because of existing physical or mental illness or infirmity.

(D) Absent from the trial or other hearing and the court is unable to compel the deponent's attendance by its process.

(E) Absent from the trial or other hearing and the proponent of the deposition has exercised reasonable diligence but has been unable to procure the deponent's attendance by the court's process.

(3) Exceptional circumstances exist that make it desirable to allow the use of any deposition in the interests of justice and with due regard to the importance of presenting the testimony of witnesses orally in open court.

(d) Any party may use a video recording of the deposition testimony of a treating or consulting physician or of any expert witness even though the deponent is available to testify if the deposition notice under Section 2025.220 reserved the right to use the deposition at trial, and if that party has complied with subdivision (m) of Section 2025.340.

(e) Subject to the requirements of this chapter, a party may offer in evidence all or any part of a deposition, and if the party introduces only part of the deposition, any other party may introduce any other parts that are relevant to the parts introduced.

(f) Substitution of parties does not affect the right to use depositions previously taken.

(g) When an action has been brought in any court of the United States or of any state, and another action involving the same subject matter is subsequently brought between the same parties or their representatives or successors in interest, all depositions lawfully taken and duly filed in the initial action may be used in the subsequent action as if originally taken in that subsequent action. A deposition previously taken may also be used as permitted by the Evidence Code.

CHAPTER 10. ORAL DEPOSITION OUTSIDE CALIFORNIA

2026.010. (a) Any party may obtain discovery by taking an oral deposition, as described in Section 2025.010, in another state of the United States, or in a territory or an insular possession subject to its jurisdiction. Except as modified in this section, the procedures for taking oral depositions in California set forth in Chapter 9 (commencing with Section 2025.010) apply to an oral deposition taken in another state of

the United States, or in a territory or an insular possession subject to its jurisdiction.

(b) If a deponent is a party to the action or an officer, director, managing agent, or employee of a party, the service of the deposition notice is effective to compel that deponent to attend and to testify, as well as to produce any document or tangible thing for inspection and copying. The deposition notice shall specify a place in the state, territory, or insular possession of the United States that is within 75 miles of the residence or a business office of a deponent.

(c) If the deponent is not a party to the action or an officer, director, managing agent, or employee of a party, a party serving a deposition notice under this section shall use any process and procedures required and available under the laws of the state, territory, or insular possession where the deposition is to be taken to compel the deponent to attend and to testify, as well as to produce any document or tangible thing for inspection, copying, and any related activity.

(d) A deposition taken under this section shall be conducted in either of the following ways:

(1) Under the supervision of a person who is authorized to administer oaths by the laws of the United States or those of the place where the examination is to be held, and who is not otherwise disqualified under Section 2025.320 and subdivisions (b) to (f), inclusive, of Section 2025.340.

(2) Before a person appointed by the court.

(e) An appointment under subdivision (d) is effective to authorize that person to administer oaths and to take testimony.

(f) On request, the clerk of the court shall issue a commission authorizing the deposition in another state or place. The commission shall request that process issue in the place where the examination is to be held, requiring attendance and enforcing the obligations of the deponents to produce documents and answer questions. The commission shall be issued by the clerk to any party in any action pending in its venue without a noticed motion or court order. The commission may contain terms that are required by the foreign jurisdiction to initiate the process. If a court order is required by the foreign jurisdiction, an order for a commission may be obtained by ex parte application.

2027.010. (a) Any party may obtain discovery by taking an oral deposition, as described in Section 2025.010, in a foreign nation. Except as modified in this section, the procedures for taking oral depositions in California set forth in Chapter 9 (commencing with Section 2025.010) apply to an oral deposition taken in a foreign nation.

(b) If a deponent is a party to the action or an officer, director, managing agent, or employee of a party, the service of the deposition

notice is effective to compel the deponent to attend and to testify, as well as to produce any document or tangible thing for inspection and copying.

(c) If a deponent is not a party to the action or an officer, director, managing agent or employee of a party, a party serving a deposition notice under this section shall use any process and procedures required and available under the laws of the foreign nation where the deposition is to be taken to compel the deponent to attend and to testify, as well as to produce any document or tangible thing for inspection, copying, and any related activity.

(d) A deposition taken under this section shall be conducted under the supervision of any of the following:

(1) A person who is authorized to administer oaths or their equivalent by the laws of the United States or of the foreign nation, and who is not otherwise disqualified under Section 2025.320 and subdivisions (b) to (f), inclusive, of Section 2025.340.

(2) A person or officer appointed by commission or under letters rogatory.

(3) Any person agreed to by all the parties.

(e) On motion of the party seeking to take an oral deposition in a foreign nation, the court in which the action is pending shall issue a commission, letters rogatory, or a letter of request, if it determines that one is necessary or convenient. The commission, letters rogatory, or letter of request may include any terms and directions that are just and appropriate. The deposition officer may be designated by name or by descriptive title in the deposition notice and in the commission. Letters rogatory or a letter of request may be addressed: "To the Appropriate Judicial Authority in [name of foreign nation]."

CHAPTER 11. DEPOSITION BY WRITTEN QUESTIONS

2028.010. Any party may obtain discovery by taking a deposition by written questions instead of by oral examination. Except as modified in this chapter, the procedures for taking oral depositions set forth in Chapters 9 (commencing with Section 2025.010) and 10 (commencing with Section 2026.010) apply to written depositions.

2028.020. The notice of a written deposition shall comply with Sections 2025.220 and 2025.230, and with subdivision (c) of Section 2020.240, except as follows:

(a) The name or descriptive title, as well as the address, of the deposition officer shall be stated.

(b) The date, time, and place for commencement of the deposition may be left to future determination by the deposition officer.

2028.030. (a) The questions to be propounded to the deponent by direct examination shall accompany the notice of a written deposition.

(b) Within 30 days after the deposition notice and questions are served, a party shall serve any cross questions on all other parties entitled to notice of the deposition.

(c) Within 15 days after being served with cross questions, a party shall serve any redirect questions on all other parties entitled to notice of the deposition.

(d) Within 15 days after being served with redirect questions, a party shall serve any recross questions on all other parties entitled to notice of the deposition.

(e) The court may, for good cause shown, extend or shorten the time periods for the interchange of cross, redirect, and recross questions.

2028.040. (a) A party who objects to the form of any question shall serve a specific objection to that question on all parties entitled to notice of the deposition within 15 days after service of the question. A party who fails to timely serve an objection to the form of a question waives it.

(b) The objecting party shall promptly move the court to sustain the objection. This motion shall be accompanied by a meet and confer declaration under Section 2016.040. Unless the court has sustained that objection, the deposition officer shall propound to the deponent that question subject to that objection as to its form.

(c) The court shall impose a monetary sanction under Chapter 7 (commencing with Section 2023.010) against any party, person, or attorney who unsuccessfully makes or opposes a motion to sustain an objection, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

2028.050. (a) A party who objects to any question on the ground that it calls for information that is privileged or is protected work product under Chapter 4 (commencing with Section 2018.010) shall serve a specific objection to that question on all parties entitled to notice of the deposition within 15 days after service of the question. A party who fails to timely serve that objection waives it.

(b) The party propounding any question to which an objection is made on those grounds may then move the court for an order overruling that objection. This motion shall be accompanied by a meet and confer declaration under Section 2016.040. The deposition officer shall not propound to the deponent any question to which a written objection on those grounds has been served unless the court has overruled that objection.

(c) The court shall impose a monetary sanction under Chapter 7 (commencing with Section 2023.010) against any party, person, or attorney who unsuccessfully makes or opposes a motion to overrule an objection, unless it finds that the one subject to the sanction acted with

substantial justification or that other circumstances make the imposition of the sanction unjust.

2028.060. (a) The party taking a written deposition may forward to the deponent a copy of the questions on direct examination for study prior to the deposition.

(b) No party or attorney shall permit the deponent to preview the form or the substance of any cross, redirect, or recross questions.

2028.070. In addition to any appropriate order listed in Section 2025.420, the court may order any of the following:

(a) That the deponent's testimony be taken by oral, instead of written, examination.

(b) That one or more of the parties receiving notice of the written deposition be permitted to attend in person or by attorney and to propound questions to the deponent by oral examination.

(c) That objections under Sections 2028.040 and 2028.050 be sustained or overruled.

(d) That the deposition be taken before an officer other than the one named or described in the deposition notice.

2028.080. The party taking a written deposition shall deliver to the officer designated in the deposition notice a copy of that notice and of all questions served under Section 2028.030. The deposition officer shall proceed promptly to propound the questions and to take and record the testimony of the deponent in response to the questions.

CHAPTER 12. DEPOSITION IN DEPOSITION IN ACTION PENDING OUTSIDE CALIFORNIA

2029.010. Whenever any mandate, writ, letters rogatory, letter of request, or commission is issued out of any court of record in any other state, territory, or district of the United States, or in a foreign nation, or whenever, on notice or agreement, it is required to take the oral or written deposition of a natural person in California, the deponent may be compelled to appear and testify, and to produce documents and things, in the same manner, and by the same process as may be employed for the purpose of taking testimony in actions pending in California.

CHAPTER 13. WRITTEN INTERROGATORIES

Article 1. Propounding Interrogatories

2030.010. (a) Any party may obtain discovery within the scope delimited by Chapters 2 (commencing with Section 2017.010) and 3 (commencing with Section 2017.710), and subject to the restrictions set forth in Chapter 5 (commencing with Section 2019.010), by

propounding to any other party to the action written interrogatories to be answered under oath.

(b) An interrogatory may relate to whether another party is making a certain contention, or to the facts, witnesses, and writings on which a contention is based. An interrogatory is not objectionable because an answer to it involves an opinion or contention that relates to fact or the application of law to fact, or would be based on information obtained or legal theories developed in anticipation of litigation or in preparation for trial.

2030.020. (a) A defendant may propound interrogatories to a party to the action without leave of court at any time.

(b) A plaintiff may propound interrogatories to a party without leave of court at any time that is 10 days after the service of the summons on, or in unlawful detainer actions five days after service of the summons on or appearance by, that party, whichever occurs first.

(c) Notwithstanding subdivision (b), on motion with or without notice, the court, for good cause shown, may grant leave to a plaintiff to propound interrogatories at an earlier time.

2030.030. (a) A party may propound to another party either or both of the following:

(1) Thirty-five specially prepared interrogatories that are relevant to the subject matter of the pending action.

(2) Any additional number of official form interrogatories, as described in Chapter 17 (commencing with Section 2033.710), that are relevant to the subject matter of the pending action.

(b) Except as provided in Section 2030.070, no party shall, as a matter of right, propound to any other party more than 35 specially prepared interrogatories. If the initial set of interrogatories does not exhaust this limit, the balance may be propounded in subsequent sets.

(c) Unless a declaration as described in Section 2030.050 has been made, a party need only respond to the first 35 specially prepared interrogatories served, if that party states an objection to the balance, under Section 2030.240, on the ground that the limit has been exceeded.

2030.040. (a) Subject to the right of the responding party to seek a protective order under Section 2030.090, any party who attaches a supporting declaration as described in Section 2030.050 may propound a greater number of specially prepared interrogatories to another party if this greater number is warranted because of any of the following:

(1) The complexity or the quantity of the existing and potential issues in the particular case.

(2) The financial burden on a party entailed in conducting the discovery by oral deposition.

(3) The expedience of using this method of discovery to provide to the responding party the opportunity to conduct an inquiry,

investigation, or search of files or records to supply the information sought.

(b) If the responding party seeks a protective order on the ground that the number of specially prepared interrogatories is unwarranted, the propounding party shall have the burden of justifying the number of these interrogatories.

2030.050. Any party who is propounding or has propounded more than 35 specially prepared interrogatories to any other party shall attach to each set of those interrogatories a declaration containing substantially the following:

DECLARATION FOR ADDITIONAL DISCOVERY

I, _____, declare:

1. I am (a party to this action or proceeding appearing in propria persona) (presently the attorney for _____, a party to this action or proceeding).

2. I am propounding to _____ the attached set of interrogatories.

3. This set of interrogatories will cause the total number of specially prepared interrogatories propounded to the party to whom they are directed to exceed the number of specially prepared interrogatories permitted by Section 2030.30 of the Code of Civil Procedure.

4. I have previously propounded a total of _____ interrogatories to this party, of which _____ interrogatories were not official form interrogatories.

5. This set of interrogatories contains a total of _____ specially prepared interrogatories.

6. I am familiar with the issues and the previous discovery conducted by all of the parties in the case.

7. I have personally examined each of the questions in this set of interrogatories.

8. This number of questions is warranted under Section 2030.040 of the Code of Civil Procedure because _____. (Here state each factor described in Section 2030.040 that is relied on, as well as the reasons why any factor relied on is applicable to the instant lawsuit.)

9. None of the questions in this set of interrogatories is being propounded for any improper purpose, such as to harass the party, or the attorney for the party, to whom it is directed, or to cause unnecessary delay or needless increase in the cost of litigation.

I declare under penalty of perjury under the laws of California that the foregoing is true and correct, and that this declaration was executed on _____.

(Signature)

Attorney for _____

2030.060. (a) A party propounding interrogatories shall number each set of interrogatories consecutively.

(b) In the first paragraph immediately below the title of the case, there shall appear the identity of the propounding party, the set number, and the identity of the responding party.

(c) Each interrogatory in a set shall be separately set forth and identified by number or letter.

(d) Each interrogatory shall be full and complete in and of itself. No preface or instruction shall be included with a set of interrogatories unless it has been approved under Chapter 17 (commencing with Section 2033.710).

(e) Any term specially defined in a set of interrogatories shall be typed with all letters capitalized wherever that term appears.

(f) No specially prepared interrogatory shall contain subparts, or a compound, conjunctive, or disjunctive question.

(g) An interrogatory may not be made a continuing one so as to impose on the party responding to it a duty to supplement an answer to it that was initially correct and complete with later acquired information.

2030.070. (a) In addition to the number of interrogatories permitted by Sections 2030.030 and 2030.040, a party may propound a supplemental interrogatory to elicit any later acquired information bearing on all answers previously made by any party in response to interrogatories.

(b) A party may propound a supplemental interrogatory twice before the initial setting of a trial date, and, subject to the time limits on discovery proceedings and motions provided in Chapter 8 (commencing with Section 2024.010), once after the initial setting of a trial date.

(c) Notwithstanding subdivisions (a) and (b), on motion, for good cause shown, the court may grant leave to a party to propound an additional number of supplemental interrogatories.

2030.080. (a) The party propounding interrogatories shall serve a copy of them on the party to whom the interrogatories are directed.

(b) The propounding party shall also serve a copy of the interrogatories on all other parties who have appeared in the action. On motion, with or without notice, the court may relieve the party from this requirement on its determination that service on all other parties would be unduly expensive or burdensome.

2030.090. (a) When interrogatories have been propounded, the responding party, and any other party or affected natural person or

organization may promptly move for a protective order. This motion shall be accompanied by a meet and confer declaration under Section 2016.040.

(b) The court, for good cause shown, may make any order that justice requires to protect any party or other natural person or organization from unwarranted annoyance, embarrassment, or oppression, or undue burden and expense. This protective order may include, but is not limited to, one or more of the following directions:

(1) That the set of interrogatories, or particular interrogatories in the set, need not be answered.

(2) That, contrary to the representations made in a declaration submitted under Section 2030.050, the number of specially prepared interrogatories is unwarranted.

(3) That the time specified in Section 2030.260 to respond to the set of interrogatories, or to particular interrogatories in the set, be extended.

(4) That the response be made only on specified terms and conditions.

(5) That the method of discovery be an oral deposition instead of interrogatories to a party.

(6) That a trade secret or other confidential research, development, or commercial information not be disclosed or be disclosed only in a certain way.

(7) That some or all of the answers to interrogatories be sealed and thereafter opened only on order of the court.

(c) If the motion for a protective order is denied in whole or in part, the court may order that the party provide or permit the discovery against which protection was sought on terms and conditions that are just.

(d) The court shall impose a monetary sanction under Chapter 7 (commencing with Section 2023.010) against any party, person, or attorney who unsuccessfully makes or opposes a motion for a protective order under this section, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

Article 2. Response to Interrogatories

2030.210. (a) The party to whom interrogatories have been propounded shall respond in writing under oath separately to each interrogatory by any of the following:

(1) An answer containing the information sought to be discovered.

(2) An exercise of the party's option to produce writings.

(3) An objection to the particular interrogatory.

(b) In the first paragraph of the response immediately below the title of the case, there shall appear the identity of the responding party, the set number, and the identity of the propounding party.

(c) Each answer, exercise of option, or objection in the response shall bear the same identifying number or letter and be in the same sequence as the corresponding interrogatory, but the text of that interrogatory need not be repeated.

2030.220. (a) Each answer in a response to interrogatories shall be as complete and straightforward as the information reasonably available to the responding party permits.

(b) If an interrogatory cannot be answered completely, it shall be answered to the extent possible.

(c) If the responding party does not have personal knowledge sufficient to respond fully to an interrogatory, that party shall so state, but shall make a reasonable and good faith effort to obtain the information by inquiry to other natural persons or organizations, except where the information is equally available to the propounding party.

2030.230. If the answer to an interrogatory would necessitate the preparation or the making of a compilation, abstract, audit, or summary of or from the documents of the party to whom the interrogatory is directed, and if the burden or expense of preparing or making it would be substantially the same for the party propounding the interrogatory as for the responding party, it is a sufficient answer to that interrogatory to refer to this section and to specify the writings from which the answer may be derived or ascertained. This specification shall be in sufficient detail to permit the propounding party to locate and to identify, as readily as the responding party can, the documents from which the answer may be ascertained. The responding party shall then afford to the propounding party a reasonable opportunity to examine, audit, or inspect these documents and to make copies, compilations, abstracts, or summaries of them.

2030.240. (a) If only a part of an interrogatory is objectionable, the remainder of the interrogatory shall be answered.

(b) If an objection is made to an interrogatory or to a part of an interrogatory, the specific ground for the objection shall be set forth clearly in the response. If an objection is based on a claim of privilege, the particular privilege invoked shall be clearly stated. If an objection is based on a claim that the information sought is protected work product under Chapter 4 (commencing with Section 2018.010), that claim shall be expressly asserted.

2030.250. (a) The party to whom the interrogatories are directed shall sign the response under oath unless the response contains only objections.

(b) If that party is a public or private corporation, or a partnership, association, or governmental agency, one of its officers or agents shall sign the response under oath on behalf of that party. If the officer or agent signing the response on behalf of that party is an attorney acting in that

capacity for the party, that party waives any lawyer-client privilege and any protection for work product under Chapter 4 (commencing with Section 2018.010) during any subsequent discovery from that attorney concerning the identity of the sources of the information contained in the response.

(c) The attorney for the responding party shall sign any responses that contain an objection.

2030.260. (a) Within 30 days after service of interrogatories, or in unlawful detainer actions within five days after service of interrogatories the party to whom the interrogatories are propounded shall serve the original of the response to them on the propounding party, unless on motion of the propounding party the court has shortened the time for response, or unless on motion of the responding party the court has extended the time for response. In unlawful detainer actions, the party to whom the interrogatories are propounded shall have five days from the date of service to respond unless on motion of the propounding party the court has shortened the time for response.

(b) The party to whom the interrogatories are propounded shall also serve a copy of the response on all other parties who have appeared in the action. On motion, with or without notice, the court may relieve the party from this requirement on its determination that service on all other parties would be unduly expensive or burdensome.

2030.270. (a) The party propounding interrogatories and the responding party may agree to extend the time for service of a response to a set of interrogatories, or to particular interrogatories in a set, to a date beyond that provided in Section 2030.260.

(b) This agreement may be informal, but it shall be confirmed in a writing that specifies the extended date for service of a response.

(c) Unless this agreement expressly states otherwise, it is effective to preserve to the responding party the right to respond to any interrogatory to which the agreement applies in any manner specified in Sections 2030.210, 2030.220, 2030.230, and 2030.240.

2030.280. (a) The interrogatories and the response thereto shall not be filed with the court.

(b) The propounding party shall retain both the original of the interrogatories, with the original proof of service affixed to them, and the original of the sworn response until six months after final disposition of the action. At that time, both originals may be destroyed, unless the court on motion of any party and for good cause shown orders that the originals be preserved for a longer period.

2030.290. If a party to whom interrogatories are directed fails to serve a timely response, the following rules apply:

(a) The party to whom the interrogatories are directed waives any right to exercise the option to produce writings under Section 2030.230,

as well as any objection to the interrogatories, including one based on privilege or on the protection for work product under Chapter 4 (commencing with Section 2018.010). The court, on motion, may relieve that party from this waiver on its determination that both of the following conditions are satisfied:

(1) The party has subsequently served a response that is in substantial compliance with Sections 2030.210, 2030.220, 2030.230, and 2030.240.

(2) The party's failure to serve a timely response was the result of mistake, inadvertence, or excusable neglect.

(b) The party propounding the interrogatories may move for an order compelling response to the interrogatories.

(c) The court shall impose a monetary sanction under Chapter 7 (commencing with Section 2023.010) against any party, person, or attorney who unsuccessfully makes or opposes a motion to compel a response to interrogatories, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust. If a party then fails to obey an order compelling answers, the court may make those orders that are just, including the imposition of an issue sanction, an evidence sanction, or a terminating sanction under Chapter 7 (commencing with Section 2023.010). In lieu of or in addition to that sanction, the court may impose a monetary sanction under Chapter 7 (commencing with Section 2023.010).

2030.300. (a) On receipt of a response to interrogatories, the propounding party may move for an order compelling a further response if the propounding party deems that any of the following apply:

(1) An answer to a particular interrogatory is evasive or incomplete.

(2) An exercise of the option to produce documents under Section 2030.230 is unwarranted or the required specification of those documents is inadequate.

(3) An objection to an interrogatory is without merit or too general.

(b) A motion under subdivision (a) shall be accompanied by a meet and confer declaration under Section 2016.040.

(c) Unless notice of this motion is given within 45 days of the service of the response, or any supplemental response, or on or before any specific later date to which the propounding party and the responding party have agreed in writing, the propounding party waives any right to compel a further response to the interrogatories.

(d) The court shall impose a monetary sanction under Chapter 7 (commencing with Section 2023.010) against any party, person, or attorney who unsuccessfully makes or opposes a motion to compel a further response to interrogatories, unless it finds that the one subject to

the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

(e) If a party then fails to obey an order compelling further response to interrogatories, the court may make those orders that are just, including the imposition of an issue sanction, an evidence sanction, or a terminating sanction under Chapter 7 (commencing with Section 2023.010). In lieu of or in addition to that sanction, the court may impose a monetary sanction under Chapter 7 (commencing with Section 2023.010).

2030.310. (a) Without leave of court, a party may serve an amended answer to any interrogatory that contains information subsequently discovered, inadvertently omitted, or mistakenly stated in the initial interrogatory. At the trial of the action, the propounding party or any other party may use the initial answer under Section 2030.410, and the responding party may then use the amended answer.

(b) The party who propounded an interrogatory to which an amended answer has been served may move for an order that the initial answer to that interrogatory be deemed binding on the responding party for the purpose of the pending action. This motion shall be accompanied by a meet and confer declaration under Section 2016.040.

(c) The court shall grant a motion under subdivision (b) if it determines that all of the following conditions are satisfied:

(1) The initial failure of the responding party to answer the interrogatory correctly has substantially prejudiced the party who propounded the interrogatory.

(2) The responding party has failed to show substantial justification for the initial answer to that interrogatory.

(3) The prejudice to the propounding party cannot be cured either by a continuance to permit further discovery or by the use of the initial answer under Section 2030.410.

(d) The court shall impose a monetary sanction under Chapter 7 (commencing with Section 2023.010) against any party, person, or attorney who unsuccessfully makes or opposes a motion to deem binding an initial answer to an interrogatory, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

Article 3. Use of Interrogatory Answer

2030.410. At the trial or any other hearing in the action, so far as admissible under the rules of evidence, the propounding party or any party other than the responding party may use any answer or part of an answer to an interrogatory only against the responding party. It is not ground for objection to the use of an answer to an interrogatory that the

responding party is available to testify, has testified, or will testify at the trial or other hearing.

CHAPTER 14. INSPECTION AND PRODUCTION OF DOCUMENTS,
TANGIBLE THINGS, LAND, AND OTHER PROPERTY

Article 1. Inspection Demand

2031.010. (a) Any party may obtain discovery within the scope delimited by Chapters 2 (commencing with Section 2017.010) and 3 (commencing with Section 2017.710), and subject to the restrictions set forth in Chapter 5 (commencing with Section 2019.010), by inspecting documents, tangible things, and land or other property that are in the possession, custody, or control of any other party to the action.

(b) A party may demand that any other party produce and permit the party making the demand, or someone acting on that party's behalf, to inspect and to copy a document that is in the possession, custody, or control of the party on whom the demand is made.

(c) A party may demand that any other party produce and permit the party making the demand, or someone acting on that party's behalf, to inspect and to photograph, test, or sample any tangible things that are in the possession, custody, or control of the party on whom the demand is made.

(d) A party may demand that any other party allow the party making the demand, or someone acting on that party's behalf, to enter on any land or other property that is in the possession, custody, or control of the party on whom the demand is made, and to inspect and to measure, survey, photograph, test, or sample the land or other property, or any designated object or operation on it.

2031.020. (a) A defendant may make a demand for inspection without leave of court at any time.

(b) A plaintiff may make a demand for inspection without leave of court at any time that is 10 days after the service of the summons on, or in unlawful detainer actions within five days after service of the summons on or appearance by, the party to whom the demand is directed, whichever occurs first.

(c) Notwithstanding subdivision (b), on motion with or without notice, the court, for good cause shown, may grant leave to a plaintiff to make an inspection demand at an earlier time.

2031.030. (a) A party demanding an inspection shall number each set of demands consecutively.

(b) In the first paragraph immediately below the title of the case, there shall appear the identity of the demanding party, the set number, and the identity of the responding party.

(c) Each demand in a set shall be separately set forth, identified by number or letter, and shall do all of the following:

(1) Designate the documents, tangible things, or land or other property to be inspected either by specifically describing each individual item or by reasonably particularizing each category of item.

(2) Specify a reasonable time for the inspection that is at least 30 days after service of the demand, or in unlawful detainer actions at least five days after service of the demand, unless the court for good cause shown has granted leave to specify an earlier date.

(3) Specify a reasonable place for making the inspection, copying, and performing any related activity.

(4) Specify any related activity that is being demanded in addition to an inspection and copying, as well as the manner in which that related activity will be performed, and whether that activity will permanently alter or destroy the item involved.

2031.040. The party demanding an inspection shall serve a copy of the inspection demand on the party to whom it is directed and on all other parties who have appeared in the action.

2031.050. (a) In addition to the inspection demands permitted by this chapter, a party may propound a supplemental demand to inspect any later acquired or discovered documents, tangible things, or land or other property that are in the possession, custody, or control of the party on whom the demand is made.

(b) A party may propound a supplemental inspection demand twice before the initial setting of a trial date, and, subject to the time limits on discovery proceedings and motions provided in Chapter 8 (commencing with Section 2024.010), once after the initial setting of a trial date.

(c) Notwithstanding subdivisions (a) and (b), on motion, for good cause shown, the court may grant leave to a party to propound an additional number of supplemental demands for inspection.

2031.060. (a) When an inspection of documents, tangible things or places has been demanded, the party to whom the demand has been directed, and any other party or affected person or organization, may promptly move for a protective order. This motion shall be accompanied by a meet and confer declaration under Section 2016.040.

(b) The court, for good cause shown, may make any order that justice requires to protect any party or other natural person or organization from unwarranted annoyance, embarrassment, or oppression, or undue burden and expense. This protective order may include, but is not limited to, one or more of the following directions:

(1) That all or some of the items or categories of items in the inspection demand need not be produced or made available at all.

(2) That the time specified in Section 2030.260 to respond to the set of inspection demands, or to a particular item or category in the set, be extended.

(3) That the place of production be other than that specified in the inspection demand.

(4) That the inspection be made only on specified terms and conditions.

(5) That a trade secret or other confidential research, development, or commercial information not be disclosed, or be disclosed only to specified persons or only in a specified way.

(6) That the items produced be sealed and thereafter opened only on order of the court.

(c) If the motion for a protective order is denied in whole or in part, the court may order that the party to whom the demand was directed provide or permit the discovery against which protection was sought on terms and conditions that are just.

(d) The court shall impose a monetary sanction under Chapter 7 (commencing with Section 2023.010) against any party, person, or attorney who unsuccessfully makes or opposes a motion for a protective order, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

Article 2. Response to Inspection Demand

2031.210. (a) The party to whom an inspection demand has been directed shall respond separately to each item or category of item by any of the following:

(1) A statement that the party will comply with the particular demand for inspection and any related activities.

(2) A representation that the party lacks the ability to comply with the demand for inspection of a particular item or category of item.

(3) An objection to the particular demand.

(b) In the first paragraph of the response immediately below the title of the case, there shall appear the identity of the responding party, the set number, and the identity of the demanding party.

(c) Each statement of compliance, each representation, and each objection in the response shall bear the same number and be in the same sequence as the corresponding item or category in the demand, but the text of that item or category need not be repeated.

2031.220. A statement that the party to whom an inspection demand has been directed will comply with the particular demand shall state that the production, inspection, and related activity demanded will be allowed either in whole or in part, and that all documents or things in the

demand category that are in the possession, custody, or control of that party and to which no objection is being made will be included in the production.

2031.230. A representation of inability to comply with the particular demand for inspection shall affirm that a diligent search and a reasonable inquiry has been made in an effort to comply with that demand. This statement shall also specify whether the inability to comply is because the particular item or category has never existed, has been destroyed, has been lost, misplaced, or stolen, or has never been, or is no longer, in the possession, custody, or control of the responding party. The statement shall set forth the name and address of any natural person or organization known or believed by that party to have possession, custody, or control of that item or category of item.

2031.240. (a) If only part of an item or category of item in an inspection demand is objectionable, the response shall contain a statement of compliance, or a representation of inability to comply with respect to the remainder of that item or category.

(b) If the responding party objects to the demand for inspection of an item or category of item, the response shall do both of the following:

(1) Identify with particularity any document, tangible thing, or land falling within any category of item in the demand to which an objection is being made.

(2) Set forth clearly the extent of, and the specific ground for, the objection. If an objection is based on a claim of privilege, the particular privilege invoked shall be stated. If an objection is based on a claim that the information sought is protected work product under Chapter 4 (commencing with Section 2018.010), that claim shall be expressly asserted.

2031.250. (a) The party to whom the demand for inspection is directed shall sign the response under oath unless the response contains only objections.

(b) If that party is a public or private corporation or a partnership or association or governmental agency, one of its officers or agents shall sign the response under oath on behalf of that party. If the officer or agent signing the response on behalf of that party is an attorney acting in that capacity for a party, that party waives any lawyer-client privilege and any protection for work product under Chapter 4 (commencing with Section 2018.010) during any subsequent discovery from that attorney concerning the identity of the sources of the information contained in the response.

(c) The attorney for the responding party shall sign any responses that contain an objection.

2031.260. Within 30 days after service of an inspection demand, or in unlawful detainer actions within five days of an inspection demand,

the party to whom the demand is directed shall serve the original of the response to it on the party making the demand, and a copy of the response on all other parties who have appeared in the action, unless on motion of the party making the demand, the court has shortened the time for response, or unless on motion of the party to whom the demand has been directed, the court has extended the time for response. In unlawful detainer actions, the party to whom an inspection demand is directed shall have at least five days from the dates of service of the demand to respond unless on motion of the party making the demand, the court has shortened the time for the response.

2031.270. (a) The party demanding an inspection and the responding party may agree to extend the time for service of a response to a set of inspection demands, or to particular items or categories of items in a set, to a date beyond that provided in Section 2031.260.

(b) This agreement may be informal, but it shall be confirmed in a writing that specifies the extended date for service of a response.

(c) Unless this agreement expressly states otherwise, it is effective to preserve to the responding party the right to respond to any item or category of item in the demand to which the agreement applies in any manner specified in Sections 2031.210, 2031.220, 2031.230, 2031.240, and 2031.280.

2031.280. (a) Any documents produced in response to an inspection demand shall either be produced as they are kept in the usual course of business, or be organized and labeled to correspond with the categories in the demand.

(b) If necessary, the responding party at the reasonable expense of the demanding party shall, through detection devices, translate any data compilations included in the demand into reasonably usable form.

2031.290. (a) The inspection demand and the response to it shall not be filed with the court.

(b) The party demanding an inspection shall retain both the original of the inspection demand, with the original proof of service affixed to it, and the original of the sworn response until six months after final disposition of the action. At that time, both originals may be destroyed, unless the court, on motion of any party and for good cause shown, orders that the originals be preserved for a longer period.

2031.300. If a party to whom an inspection demand is directed fails to serve a timely response to it, the following rules apply:

(a) The party to whom the inspection demand is directed waives any objection to the demand, including one based on privilege or on the protection for work product under Chapter 4 (commencing with Section 2108.010). The court, on motion, may relieve that party from this waiver on its determination that both of the following conditions are satisfied:

(1) The party has subsequently served a response that is in substantial compliance with Sections 2031.210, 2031.220, 2031.230, 2031.240, and 2031.280.

(2) The party's failure to serve a timely response was the result of mistake, inadvertence, or excusable neglect.

(b) The party making the demand may move for an order compelling response to the inspection demand.

(c) The court shall impose a monetary sanction under Chapter 7 (commencing with Section 2023.010) against any party, person, or attorney who unsuccessfully makes or opposes a motion to compel a response to an inspection demand, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust. If a party then fails to obey the order compelling a response, the court may make those orders that are just, including the imposition of an issue sanction, an evidence sanction, or a terminating sanction under Chapter 7 (commencing with Section 2023.010). In lieu of or in addition to that sanction, the court may impose a monetary sanction under Chapter 7 (commencing with Section 2023.010).

2031.310. (a) On receipt of a response to an inspection demand, the party demanding an inspection may move for an order compelling further response to the demand if the demanding party deems that any of the following apply:

(1) A statement of compliance with the demand is incomplete.

(2) A representation of inability to comply is inadequate, incomplete, or evasive.

(3) An objection in the response is without merit or too general.

(b) A motion under subdivision (a) shall comply with both of the following:

(1) The motion shall set forth specific facts showing good cause justifying the discovery sought by the inspection demand.

(2) The motion shall be accompanied by a meet and confer declaration under Section 2016.040.

(c) Unless notice of this motion is given within 45 days of the service of the response, or any supplemental response, or on or before any specific later date to which the demanding party and the responding party have agreed in writing, the demanding party waives any right to compel a further response to the inspection demand.

(d) The court shall impose a monetary sanction under Chapter 7 (commencing with Section 2023.010) against any party, person, or attorney who unsuccessfully makes or opposes a motion to compel further response to an inspection demand, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

(e) If a party fails to obey an order compelling further response, the court may make those orders that are just, including the imposition of an issue sanction, an evidence sanction, or a terminating sanction under Chapter 7 (commencing with Section 2023.010). In lieu of or in addition to that sanction, the court may impose a monetary sanction under Chapter 7 (commencing with Section 2023.010).

2031.320. (a) If a party filing a response to a demand for inspection under Section 2031.210, 2031.220, 2031.230, 2031.240, and 2031.280 thereafter fails to permit the inspection in accordance with that party's statement of compliance, the party demanding the inspection may move for an order compelling compliance.

(b) The court shall impose a monetary sanction under Chapter 7 (commencing with Section 2023.010) against any party, person, or attorney who unsuccessfully makes or opposes a motion to compel compliance with an inspection demand, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

(c) If a party then fails to obey an order compelling inspection, the court may make those orders that are just, including the imposition of an issue sanction, an evidence sanction, or a terminating sanction under Chapter 7 (commencing with Section 2023.010). In lieu of or in addition to that sanction, the court may impose a monetary sanction under Chapter 7 (commencing with Section 2023.010).

Article 3. Inspection and Production of Documents and Other Property in Specific Contexts

2031.510. (a) In any action, regardless of who is the moving party, where the boundary of land patented or otherwise granted by the state is in dispute, or the validity of any state patent or grant dated before 1950 is in dispute, all parties shall have the duty to disclose to all opposing parties all nonprivileged relevant written evidence then known and available, including evidence against interest, relating to the above issues.

(b) This evidence shall be disclosed within 120 days after the filing with the court of proof of service upon all named defendants. Thereafter, the parties shall have the continuing duty to make all subsequently discovered relevant and nonprivileged written evidence available to the opposing parties.

CHAPTER 15. PHYSICAL OR MENTAL EXAMINATION

Article 1. General Provisions

2032.010. (a) Nothing in this chapter affects tests under the Uniform Act on Blood Tests to Determine Paternity (Chapter 2 (commencing with Section 7550) of Part 2 of Division 12 of the Family Code).

(b) Nothing in this chapter requires the disclosure of the identity of an expert consulted by an attorney in order to make the certification required in an action for professional negligence under Sections 411.30 and 411.35.

2032.020. (a) Any party may obtain discovery, subject to the restrictions set forth in Chapter 5 (commencing with Section 2019.010), by means of a physical or mental examination of (1) a party to the action, (2) an agent of any party, or (3) a natural person in the custody or under the legal control of a party, in any action in which the mental or physical condition (including the blood group) of that party or other person is in controversy in the action.

(b) A physical examination conducted under this chapter shall be performed only by a licensed physician or other appropriate licensed health care practitioner.

(c) A mental examination conducted under this chapter shall be performed only by a licensed physician, or by a licensed clinical psychologist who holds a doctoral degree in psychology and has had at least five years of postgraduate experience in the diagnosis of emotional and mental disorders.

Article 2. Physical Examination of Personal Injury Plaintiff

2032.210. As used in this article, “plaintiff” includes a cross-complainant, and “defendant” includes a cross-defendant.

2032.220. (a) In any case in which a plaintiff is seeking recovery for personal injuries, any defendant may demand one physical examination of the plaintiff, if both of the following conditions are satisfied:

(1) The examination does not include any diagnostic test or procedure that is painful, protracted, or intrusive.

(2) The examination is conducted at a location within 75 miles of the residence of the examinee.

(b) A defendant may make a demand under this article without leave of court after that defendant has been served or has appeared in the action, whichever occurs first.

(c) A demand under subdivision (a) shall specify the time, place, manner, conditions, scope, and nature of the examination, as well as the

identity and the specialty, if any, of the physician who will perform the examination.

(d) A physical examination demanded under subdivision (a) shall be scheduled for a date that is at least 30 days after service of the demand. On motion of the party demanding the examination, the court may shorten this time.

(e) The defendant shall serve a copy of the demand under subdivision (a) on the plaintiff and on all other parties who have appeared in the action.

2032.230. (a) The plaintiff to whom a demand for a physical examination under this article is directed shall respond to the demand by a written statement that the examinee will comply with the demand as stated, will comply with the demand as specifically modified by the plaintiff, or will refuse, for reasons specified in the response, to submit to the demanded physical examination.

(b) Within 20 days after service of the demand the plaintiff to whom the demand is directed shall serve the original of the response to it on the defendant making the demand, and a copy of the response on all other parties who have appeared in the action. On motion of the defendant making the demand, the court may shorten the time for response. On motion of the plaintiff to whom the demand is directed, the court may extend the time for response.

2032.240. (a) If a plaintiff to whom a demand for a physical examination under this article is directed fails to serve a timely response to it, that plaintiff waives any objection to the demand. The court, on motion, may relieve that plaintiff from this waiver on its determination that both of the following conditions are satisfied:

(1) The plaintiff has subsequently served a response that is in substantial compliance with Section 2032.230.

(2) The plaintiff's failure to serve a timely response was the result of mistake, inadvertence, or excusable neglect.

(b) The defendant may move for an order compelling response and compliance with a demand for a physical examination.

(c) The court shall impose a monetary sanction under Chapter 7 (commencing with Section 2023.010) against any party, person, or attorney who unsuccessfully makes or opposes a motion to compel response and compliance with a demand for a physical examination, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

(d) If a plaintiff then fails to obey the order compelling response and compliance, the court may make those orders that are just, including the imposition of an issue sanction, an evidence sanction, or a terminating sanction under Chapter 7 (commencing with Section 2023.010). In lieu

of or in addition to that sanction the court may impose a monetary sanction under Chapter 7 (commencing with Section 2023.010).

2032.250. (a) If a defendant who has demanded a physical examination under this article, on receipt of the plaintiff's response to that demand, deems that any modification of the demand, or any refusal to submit to the physical examination is unwarranted, that defendant may move for an order compelling compliance with the demand. This motion shall be accompanied by a meet and confer declaration under Section 2016.040.

(b) The court shall impose a monetary sanction under Chapter 7 (commencing with Section 2023.010) against any party, person, or attorney who unsuccessfully makes or opposes a motion to compel compliance with a demand for a physical examination, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

2032.260. (a) The demand for a physical examination under this article and the response to it shall not be filed with the court.

(b) The defendant shall retain both the original of the demand, with the original proof of service affixed to it, and the original response until six months after final disposition of the action. At that time, the original may be destroyed, unless the court, on motion of any party and for good cause shown, orders that the originals be preserved for a longer period.

Article 3. Motion for Physical or Mental Examination

2032.310. (a) If any party desires to obtain discovery by a physical examination other than that described in Article 2 (commencing with Section 2032.210), or by a mental examination, the party shall obtain leave of court.

(b) A motion for an examination under subdivision (a) shall specify the time, place, manner, conditions, scope, and nature of the examination, as well as the identity and the specialty, if any, of the person or persons who will perform the examination. The motion shall be accompanied by a meet and confer declaration under Section 2016.040.

(c) Notice of the motion shall be served on the person to be examined and on all parties who have appeared in the action.

2032.320. (a) The court shall grant a motion for a physical or mental examination under Section 2032.310 only for good cause shown.

(b) If a party stipulates as provided in subdivision (c), the court shall not order a mental examination of a person for whose personal injuries a recovery is being sought except on a showing of exceptional circumstances.

(c) A stipulation by a party under this subdivision shall include both of the following:

(1) A stipulation that no claim is being made for mental and emotional distress over and above that usually associated with the physical injuries claimed.

(2) A stipulation that no expert testimony regarding this usual mental and emotional distress will be presented at trial in support of the claim for damages.

(d) An order granting a physical or mental examination shall specify the person or persons who may perform the examination, as well as the time, place, manner, diagnostic tests and procedures, conditions, scope, and nature of the examination.

(e) If the place of the examination is more than 75 miles from the residence of the person to be examined, an order to submit to it shall be entered only if both of the following conditions are satisfied:

(1) The court determines that there is good cause for the travel involved.

(2) The order is conditioned on the advancement by the moving party of the reasonable expenses and costs to the examinee for travel to the place of examination.

Article 4. Failure To Submit To or Produce Another for Physical or Mental Examination

2032.410. If a party is required to submit to a physical or mental examination under Articles 2 (commencing with Section 2032.210) or 3 (commencing with Section 2032.310), or under Section 2016.030, but fails to do so, the court, on motion of the party entitled to the examination, may make those orders that are just, including the imposition of an issue sanction, an evidence sanction, or a terminating sanction under Chapter 7 (commencing with Section 2023.010). In lieu of or in addition to that sanction, the court may, on motion of the party, impose a monetary sanction under Chapter 7 (commencing with Section 2023.010).

2032.420. If a party is required to produce another for a physical or mental examination under Articles 2 (commencing with Section 2032.210) or 3 (commencing with Section 2032.310), or under Section 2032.030, but fails to do so, the court, on motion of the party entitled to the examination, may make those orders that are just, including the imposition of an issue sanction, an evidence sanction, or a terminating sanction under Chapter 7 (commencing with Section 2023.010), unless the party failing to comply demonstrates an inability to produce that person for examination. In lieu of or in addition to that sanction, the court may impose a monetary sanction under Chapter 7 (commencing with Section 2023.010).

Article 5. Conduct of Examination

2032.510. (a) The attorney for the examinee or for a party producing the examinee, or that attorney's representative, shall be permitted to attend and observe any physical examination conducted for discovery purposes, and to record stenographically or by audiotape any words spoken to or by the examinee during any phase of the examination.

(b) The observer under subdivision (a) may monitor the examination, but shall not participate in or disrupt it.

(c) If an attorney's representative is to serve as the observer, the representative shall be authorized to so act by a writing subscribed by the attorney which identifies the representative.

(d) If in the judgment of the observer the examiner becomes abusive to the examinee or undertakes to engage in unauthorized diagnostic tests and procedures, the observer may suspend it to enable the party being examined or producing the examinee to make a motion for a protective order.

(e) If the observer begins to participate in or disrupt the examination, the person conducting the physical examination may suspend the examination to enable the party at whose instance it is being conducted to move for a protective order.

(f) The court shall impose a monetary sanction under Chapter 7 (commencing with Section 2023.010) against any party, person, or attorney who unsuccessfully makes or opposes a motion for a protective order under this section, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

2032.520. If an examinee submits or authorizes access to X-rays of any area of his or her body for inspection by the examining physician, no additional X-rays of that area may be taken by the examining physician except with consent of the examinee or on order of the court for good cause shown.

2032.530. (a) The examiner and examinee shall have the right to record a mental examination on audiotape.

(b) Nothing in this title shall be construed to alter, amend, or affect existing case law with respect to the presence of the attorney for the examinee or other persons during the examination by agreement or court order.

Article 6. Reports of Examination

2032.610. (a) If a party submits to, or produces another for, a physical or mental examination in compliance with a demand under

Article 2 (commencing with Section 2032.210), an order of court under Article 3 (commencing with Section 2032.310), or an agreement under Section 2016.030, that party has the option of making a written demand that the party at whose instance the examination was made deliver both of the following to the demanding party:

(1) A copy of a detailed written report setting out the history, examinations, findings, including the results of all tests made, diagnoses, prognoses, and conclusions of the examiner.

(2) A copy of reports of all earlier examinations of the same condition of the examinee made by that or any other examiner.

(b) If the option under subdivision (a) is exercised, a copy of the requested reports shall be delivered within 30 days after service of the demand, or within 15 days of trial, whichever is earlier.

(c) In the circumstances described in subdivision (a), the protection for work product under Chapter 4 (commencing with Section 2018.010) is waived, both for the examiner's writings and reports and to the taking of the examiner's testimony.

2032.620. (a) If the party at whose instance an examination was made fails to make a timely delivery of the reports demanded under Section 2032.610, the demanding party may move for an order compelling their delivery. This motion shall be accompanied by a meet and confer declaration under Section 2016.040.

(b) The court shall impose a monetary sanction under Chapter 7 (commencing with Section 2023.010) against any party, person, or attorney who unsuccessfully makes or opposes a motion to compel delivery of medical reports under this section, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

(c) If a party then fails to obey an order compelling delivery of demanded medical reports, the court may make those orders that are just, including the imposition of an issue sanction, an evidence sanction, or a terminating sanction under Chapter 7 (commencing with Section 2023.010). In lieu of or in addition to those sanctions, the court may impose a monetary sanction under Chapter 7 (commencing with Section 2023.010). The court shall exclude at trial the testimony of any examiner whose report has not been provided by a party.

2032.630. By demanding and obtaining a report of a physical or mental examination under Section 2032.610 or 2032.620, or by taking the deposition of the examiner, other than under Article 3 (commencing with Section 2034.410) of Chapter 18, the party who submitted to, or produced another for, a physical or mental examination waives in the pending action, and in any other action involving the same controversy, any privilege, as well as any protection for work product under Chapter 4 (commencing with Section 2018.010), that the party or other examinee

may have regarding reports and writings as well as the testimony of every other physician, psychologist, or licensed health care practitioner who has examined or may thereafter examine the party or other examinee in respect of the same physical or mental condition.

2032.640. A party receiving a demand for a report under Section 2032.610 is entitled at the time of compliance to receive in exchange a copy of any existing written report of any examination of the same condition by any other physician, psychologist, or licensed health care practitioner. In addition, that party is entitled to receive promptly any later report of any previous or subsequent examination of the same condition, by any physician, psychologist, or licensed health care practitioner.

2032.650. (a) If a party who has demanded and received delivery of medical reports under Section 2032.610 fails to deliver existing or later reports of previous or subsequent examinations under Section 2032.640, a party who has complied with Section 2032.610 may move for an order compelling delivery of medical reports. This motion shall be accompanied by a meet and confer declaration under Section 2016.040.

(b) The court shall impose a monetary sanction under Chapter 7 (commencing with Section 2023.010) against any party, person, or attorney who unsuccessfully makes or opposes a motion to compel delivery of medical reports under this section, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

(c) If a party then fails to obey an order compelling delivery of medical reports, the court may make those orders that are just, including the imposition of an issue sanction, an evidence sanction, or a terminating sanction under Chapter 7 (commencing with Section 2023.010). In lieu of or in addition to the sanction, the court may impose a monetary sanction under Chapter 7 (commencing with Section 2023.010). The court shall exclude at trial the testimony of any health care practitioner whose report has not been provided by a party ordered to do so by the court.

CHAPTER 16. REQUESTS FOR ADMISSION

Article 1. Requests For Admission

2033.010. Any party may obtain discovery within the scope delimited by Chapters 2 (commencing with Section 2017.010) and 3 (commencing with Section 2017.710), and subject to the restrictions set forth in Chapter 5 (commencing with Section 2019.010), by a written request that any other party to the action admit the genuineness of

specified documents, or the truth of specified matters of fact, opinion relating to fact, or application of law to fact. A request for admission may relate to a matter that is in controversy between the parties.

2033.020. (a) A defendant may make requests for admission by a party without leave of court at any time.

(b) A plaintiff may make requests for admission by a party without leave of court at any time that is 10 days after the service of the summons on, or, in unlawful detainer actions, five days after the service of the summons on, or appearance by, that party, whichever occurs first.

(c) Notwithstanding subdivision (b), on motion with or without notice, the court, for good cause shown, may grant leave to a plaintiff to make requests for admission at an earlier time.

2033.030. (a) No party shall request, as a matter of right, that any other party admit more than 35 matters that do not relate to the genuineness of documents. If the initial set of admission requests does not exhaust this limit, the balance may be requested in subsequent sets.

(b) Unless a declaration as described in Section 2033.050 has been made, a party need only respond to the first 35 admission requests served that do not relate to the genuineness of documents, if that party states an objection to the balance under Section 2033.230 on the ground that the limit has been exceeded.

(c) The number of requests for admission of the genuineness of documents is not limited except as justice requires to protect the responding party from unwarranted annoyance, embarrassment, oppression, or undue burden and expense.

2033.040. (a) Subject to the right of the responding party to seek a protective order under Section 2033.080, any party who attaches a supporting declaration as described in Section 2033.050 may request a greater number of admissions by another party if the greater number is warranted by the complexity or the quantity of the existing and potential issues in the particular case.

(b) If the responding party seeks a protective order on the ground that the number of requests for admission is unwarranted, the propounding party shall have the burden of justifying the number of requests for admission.

2033.050. Any party who is requesting or who has already requested more than 35 admissions not relating to the genuineness of documents by any other party shall attach to each set of requests for admissions a declaration containing substantially the following words:

DECLARATION FOR ADDITIONAL DISCOVERY

I, _____, declare:

1. I am (a party to this action or proceeding appearing in propria persona) (presently the attorney for _____, a party to this action or proceeding).
2. I am propounding to _____ the attached set of requests for admission.
3. This set of requests for admission will cause the total number of requests propounded to the party to whom they are directed to exceed the number of requests permitted by Section 2033.030 of the Code of Civil Procedure.
4. I have previously propounded a total of _____ requests for admission to this party.
5. This set of requests for admission contains a total of _____ requests.
6. I am familiar with the issues and the previous discovery conducted by all of the parties in this case.
7. I have personally examined each of the requests in this set of requests for admission.
8. This number of requests for admission is warranted under Section 2033.040 of the Code of Civil Procedure because _____. (Here state the reasons why the complexity or the quantity of issues in the instant lawsuit warrant this number of requests for admission.)
9. None of the requests in this set of requests is being propounded for any improper purpose, such as to harass the party, or the attorney for the party, to whom it is directed, or to cause unnecessary delay or needless increase in the cost of litigation.

I declare under penalty of perjury under the laws of California that the foregoing is true and correct, and that this declaration was executed on _____.

 (Signature)

Attorney for _____

- 2033.060. (a) A party requesting admissions shall number each set of requests consecutively.
- (b) In the first paragraph immediately below the title of the case, there shall appear the identity of the party requesting the admissions, the set number, and the identity of the responding party.
- (c) Each request for admission in a set shall be separately set forth and identified by letter or number.
- (d) Each request for admission shall be full and complete in and of itself. No preface or instruction shall be included with a set of admission

requests unless it has been approved under Chapter 17 (commencing with Section 2033.710).

(e) Any term specially defined in a request for admission shall be typed with all letters capitalized whenever the term appears.

(f) No request for admission shall contain subparts, or a compound, conjunctive, or disjunctive request unless it has been approved under Chapter 17 (commencing with Section 2033.710).

(g) A party requesting an admission of the genuineness of any documents shall attach copies of those documents to the requests, and shall make the original of those documents available for inspection on demand by the party to whom the requests for admission are directed.

(h) No party shall combine in a single document requests for admission with any other method of discovery.

2033.070. The party requesting admissions shall serve a copy of them on the party to whom they are directed and on all other parties who have appeared in the action.

2033.080. (a) When requests for admission have been made, the responding party may promptly move for a protective order. This motion shall be accompanied by a meet and confer declaration under Section 2016.040.

(b) The court, for good cause shown, may make any order that justice requires to protect any party from unwarranted annoyance, embarrassment, oppression, or undue burden and expense. This protective order may include, but is not limited to, one or more of the following directions:

(1) That the set of admission requests, or particular requests in the set, need not be answered at all.

(2) That, contrary to the representations made in a declaration submitted under Section 2033.050, the number of admission requests is unwarranted.

(3) That the time specified in Section 2033.250 to respond to the set of admission requests, or to particular requests in the set, be extended.

(4) That a trade secret or other confidential research, development, or commercial information not be admitted or be admitted only in a certain way.

(5) That some or all of the answers to requests for admission be sealed and thereafter opened only on order of the court.

(c) If the motion for a protective order is denied in whole or in part, the court may order that the responding party provide or permit the discovery against which protection was sought on terms and conditions that are just.

(d) The court shall impose a monetary sanction under Chapter 7 (commencing with Section 2023.010) against any party, person, or attorney who unsuccessfully makes or opposes a motion for a protective

order under this section, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

Article 2. Response to Requests For Admission

2033.210. (a) The party to whom requests for admission have been directed shall respond in writing under oath separately to each request.

(b) Each response shall answer the substance of the requested admission, or set forth an objection to the particular request.

(c) In the first paragraph of the response immediately below the title of the case, there shall appear the identity of the responding party, the set number, and the identity of the requesting party.

(d) Each answer or objection in the response shall bear the same identifying number or letter and be in the same sequence as the corresponding request, but the text of the particular request need not be repeated.

2033.220. (a) Each answer in a response to requests for admission shall be as complete and straightforward as the information reasonably available to the responding party permits.

(b) Each answer shall:

(1) Admit so much of the matter involved in the request as is true, either as expressed in the request itself or as reasonably and clearly qualified by the responding party.

(2) Deny so much of the matter involved in the request as is untrue.

(3) Specify so much of the matter involved in the request as to the truth of which the responding party lacks sufficient information or knowledge.

(c) If a responding party gives lack of information or knowledge as a reason for a failure to admit all or part of a request for admission, that party shall state in the answer that a reasonable inquiry concerning the matter in the particular request has been made, and that the information known or readily obtainable is insufficient to enable that party to admit the matter.

2033.230. (a) If only a part of a request for admission is objectionable, the remainder of the request shall be answered.

(b) If an objection is made to a request or to a part of a request, the specific ground for the objection shall be set forth clearly in the response. If an objection is based on a claim of privilege, the particular privilege invoked shall be clearly stated. If an objection is based on a claim that the matter as to which an admission is requested is protected work product under Chapter 4 (commencing with Section 2018.010), that claim shall be expressly asserted.

2033.240. (a) The party to whom the requests for admission are directed shall sign the response under oath, unless the response contains only objections.

(b) If that party is a public or private corporation, or a partnership or association or governmental agency, one of its officers or agents shall sign the response under oath on behalf of that party. If the officer or agent signing the response on behalf of that party is an attorney acting in that capacity for the party, that party waives any lawyer-client privilege and any protection for work product under Chapter 4 (commencing with Section 2018.010) during any subsequent discovery from that attorney concerning the identity of the sources of the information contained in the response.

(c) The attorney for the responding party shall sign any response that contains an objection.

2033.250. Within 30 days after service of requests for admission, or in unlawful detainer actions within five days after service of requests for admission, the party to whom the requests are directed shall serve the original of the response to them on the requesting party, and a copy of the response on all other parties who have appeared, unless on motion of the requesting party the court has shortened the time for response, or unless on motion of the responding party the court has extended the time for response. In unlawful detainer actions, the party to whom the request is directed shall have at least five days from the date of service to respond unless on motion of the requesting party the court has shortened the time for response.

2033.260. (a) The party requesting admissions and the responding party may agree to extend the time for service of a response to a set of admission requests, or to particular requests in a set, to a date beyond that provided in Section 2033.250.

(b) This agreement may be informal, but it shall be confirmed in a writing that specifies the extended date for service of a response.

(c) Unless this agreement expressly states otherwise, it is effective to preserve to the responding party the right to respond to any request for admission to which the agreement applies in any manner specified in Sections 2033.210, 2033.220, and 2033.230.

(d) Notice of this agreement shall be given by the responding party to all other parties who were served with a copy of the request.

2033.270. (a) The requests for admission and the response to them shall not be filed with the court.

(b) The party requesting admissions shall retain both the original of the requests for admission, with the original proof of service affixed to them, and the original of the sworn response until six months after final disposition of the action. At that time, both originals may be destroyed,

unless the court, on motion of any party and for good cause shown, orders that the originals be preserved for a longer period.

2033.280. If a party to whom requests for admission are directed fails to serve a timely response, the following rules apply:

(a) The party to whom the requests for admission are directed waives any objection to the requests, including one based on privilege or on the protection for work product under Chapter 4 (commencing with Section 2018.010). The court, on motion, may relieve that party from this waiver on its determination that both of the following conditions are satisfied:

(1) The party has subsequently served a response that is in substantial compliance with Sections 2033.210, 2033.220, and 2033.230.

(2) The party's failure to serve a timely response was the result of mistake, inadvertence, or excusable neglect.

(b) The requesting party may move for an order that the genuineness of any documents and the truth of any matters specified in the requests be deemed admitted, as well as for a monetary sanction under Chapter 7 (commencing with Section 2023.010).

(c) The court shall make this order, unless it finds that the party to whom the requests for admission have been directed has served, before the hearing on the motion, a proposed response to the requests for admission that is in substantial compliance with Section 2033.100. It is mandatory that the court impose a monetary sanction under Chapter 7 (commencing with Section 2023.010) on the party or attorney, or both, whose failure to serve a timely response to requests for admission necessitated this motion.

2033.290. (a) On receipt of a response to requests for admissions, the party requesting admissions may move for an order compelling a further response if that party deems that either or both of the following apply:

(1) An answer to a particular request is evasive or incomplete.

(2) An objection to a particular request is without merit or too general.

(b) A motion under subdivision (a) shall be accompanied by a meet and confer declaration under Section 2016.040.

(c) Unless notice of this motion is given within 45 days of the service of the response, or any supplemental response, or any specific later date to which the requesting party and the responding party have agreed in writing, the requesting party waives any right to compel further response to the requests for admission.

(d) The court shall impose a monetary sanction under Chapter 7 (commencing with Section 2023.010) against any party, person, or attorney who unsuccessfully makes or opposes a motion to compel further response, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

(e) If a party then fails to obey an order compelling further response to requests for admission, the court may order that the matters involved in the requests be deemed admitted. In lieu of or in addition to this order, the court may impose a monetary sanction under Chapter 7 (commencing with Section 2023.010).

2033.300. (a) A party may withdraw or amend an admission made in response to a request for admission only on leave of court granted after notice to all parties.

(b) The court may permit withdrawal or amendment of an admission only if it determines that the admission was the result of mistake, inadvertence, or excusable neglect, and that the party who obtained the admission will not be substantially prejudiced in maintaining that party's action or defense on the merits.

(c) The court may impose conditions on the granting of the motion that are just, including, but not limited to, the following:

(1) An order that the party who obtained the admission be permitted to pursue additional discovery related to the matter involved in the withdrawn or amended admission.

(2) An order that the costs of any additional discovery be borne in whole or in part by the party withdrawing or amending the admission.

Article 3. Effect of Admission

2033.410. (a) Any matter admitted in response to a request for admission is conclusively established against the party making the admission in the pending action, unless the court has permitted withdrawal or amendment of that admission under Section 2033.300.

(b) Notwithstanding subdivision (a), any admission made by a party under this section is binding only on that party and is made for the purpose of the pending action only. It is not an admission by that party for any other purpose, and it shall not be used in any manner against that party in any other proceeding.

2033.420. (a) If a party fails to admit the genuineness of any document or the truth of any matter when requested to do so under this chapter, and if the party requesting that admission thereafter proves the genuineness of that document or the truth of that matter, the party requesting the admission may move the court for an order requiring the party to whom the request was directed to pay the reasonable expenses incurred in making that proof, including reasonable attorney's fees.

(b) The court shall make this order unless it finds any of the following:

(1) An objection to the request was sustained or a response to it was waived under Section 2033.290.

(2) The admission sought was of no substantial importance.

(3) The party failing to make the admission had reasonable ground to believe that that party would prevail on the matter.

(4) There was other good reason for the failure to admit.

CHAPTER 17. FORM INTERROGATORIES AND REQUESTS FOR ADMISSION

2033.710. The Judicial Council shall develop and approve official form interrogatories and requests for admission of the genuineness of any relevant documents or of the truth of any relevant matters of fact for use in any civil action in a state court based on personal injury, property damage, wrongful death, unlawful detainer, breach of contract, family law, or fraud and for any other civil actions the Judicial Council deems appropriate.

2033.720. (a) The Judicial Council shall develop and approve official form interrogatories for use by a victim who has not received complete payment of a restitution order made pursuant to Section 1202.4 of the Penal Code.

(b) Notwithstanding whether a victim initiates or maintains an action to satisfy the unpaid restitution order, a victim may propound the form interrogatories approved pursuant to this section once each calendar year. The defendant subject to the restitution order shall, in responding to the interrogatories propounded, provide current information regarding the nature, extent, and location of any assets, income, and liabilities in which the defendant claims a present or future interest.

2033.730. (a) In developing the form interrogatories and requests for admission required by Sections 2033.710 and 2033.720, the Judicial Council shall consult with a representative advisory committee which shall include, but not be limited to, representatives of all of the following:

- (1) The plaintiff's bar.
- (2) The defense bar.
- (3) The public interest bar.
- (4) Court administrators.
- (5) The public.

(b) The form interrogatories and requests for admission shall be drafted in nontechnical language.

2033.740. (a) Use of the form interrogatories and requests for admission approved by the Judicial Council shall be optional.

(b) The form interrogatories and requests for admission shall be made available through the office of the clerk of the appropriate trial court.

(c) The Judicial Council shall promulgate any necessary rules to govern the use of the form interrogatories and requests for admission.

CHAPTER 18. SIMULTANEOUS EXCHANGE OF EXPERT WITNESS
INFORMATION

Article 1. General Provisions

2034.010. This chapter does not apply to exchanges of lists of experts and valuation data in eminent domain proceedings under Chapter 7 (commencing with Section 1258.010) of Title 7 of Part 3.

Article 2. Demand for Exchange of Expert Witness Information

2034.210. After the setting of the initial trial date for the action, any party may obtain discovery by demanding that all parties simultaneously exchange information concerning each other's expert trial witnesses to the following extent:

(a) Any party may demand a mutual and simultaneous exchange by all parties of a list containing the name and address of any natural person, including one who is a party, whose oral or deposition testimony in the form of an expert opinion any party expects to offer in evidence at the trial.

(b) If any expert designated by a party under subdivision (a) is a party or an employee of a party, or has been retained by a party for the purpose of forming and expressing an opinion in anticipation of the litigation or in preparation for the trial of the action, the designation of that witness shall include or be accompanied by an expert witness declaration under Section 2034.260.

(c) Any party may also include a demand for the mutual and simultaneous production for inspection and copying of all discoverable reports and writings, if any, made by any expert described in subdivision (b) in the course of preparing that expert's opinion.

2034.220. Any party may make a demand for an exchange of information concerning expert trial witnesses without leave of court. A party shall make this demand no later than the 10th day after the initial trial date has been set, or 70 days before that trial date, whichever is closer to the trial date.

2034.230. (a) A demand for an exchange of information concerning expert trial witnesses shall be in writing and shall identify, below the title of the case, the party making the demand. The demand shall state that it is being made under this chapter.

(b) The demand shall specify the date for the exchange of lists of expert trial witnesses, expert witness declarations, and any demanded production of writings. The specified date of exchange shall be 50 days before the initial trial date, or 20 days after service of the demand,

whichever is closer to the trial date, unless the court, on motion and a showing of good cause, orders an earlier or later date of exchange.

2034.240. The party demanding an exchange of information concerning expert trial witnesses shall serve the demand on all parties who have appeared in the action.

2034.250. (a) A party who has been served with a demand to exchange information concerning expert trial witnesses may promptly move for a protective order. This motion shall be accompanied by a meet and confer declaration under Section 2016.040.

(b) The court, for good cause shown, may make any order that justice requires to protect any party from unwarranted annoyance, embarrassment, oppression, or undue burden and expense. The protective order may include, but is not limited to, one or more of the following directions:

(1) That the demand be quashed because it was not timely served.

(2) That the date of exchange be earlier or later than that specified in the demand.

(3) That the exchange be made only on specified terms and conditions.

(4) That the production and exchange of any reports and writings of experts be made at a different place or at a different time than specified in the demand.

(5) That some or all of the parties be divided into sides on the basis of their identity of interest in the issues in the action, and that the designation of any experts as described in subdivision (b) of Section 2034.210 be made by any side so created.

(6) That a party or a side reduce the list of employed or retained experts designated by that party or side under subdivision (b) of Section 2034.210.

(c) If the motion for a protective order is denied in whole or in part, the court may order that the parties against whom the motion is brought, provide or permit the discovery against which the protection was sought on those terms and conditions that are just.

(d) The court shall impose a monetary sanction under Chapter 7 (commencing with Section 2023.010) against any party, person, or attorney who unsuccessfully makes or opposes a motion for a protective order under this section, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

2034.260. (a) All parties who have appeared in the action shall exchange information concerning expert witnesses in writing on or before the date of exchange specified in the demand. The exchange of information may occur at a meeting of the attorneys for the parties involved or by a mailing on or before the date of exchange.

(b) The exchange of expert witness information shall include either of the following:

(1) A list setting forth the name and address of any person whose expert opinion that party expects to offer in evidence at the trial.

(2) A statement that the party does not presently intend to offer the testimony of any expert witness.

(c) If any witness on the list is an expert as described in subdivision (b) of Section 2034.210, the exchange shall also include or be accompanied by an expert witness declaration signed only by the attorney for the party designating the expert, or by that party if that party has no attorney. This declaration shall be under penalty of perjury and shall contain:

(1) A brief narrative statement of the qualifications of each expert.

(2) A brief narrative statement of the general substance of the testimony that the expert is expected to give.

(3) A representation that the expert has agreed to testify at the trial.

(4) A representation that the expert will be sufficiently familiar with the pending action to submit to a meaningful oral deposition concerning the specific testimony, including any opinion and its basis, that the expert is expected to give at trial.

(5) A statement of the expert's hourly and daily fee for providing deposition testimony and for consulting with the retaining attorney.

2034.270. If a demand for an exchange of information concerning expert trial witnesses includes a demand for production of reports and writings as described in subdivision (c) of Section 2034.210, all parties shall produce and exchange, at the place and on the date specified in the demand, all discoverable reports and writings, if any, made by any designated expert described in subdivision (b) of Section 2034.210.

2034.280. (a) Within 20 days after the exchange described in Section 2034.260, any party who engaged in the exchange may submit a supplemental expert witness list containing the name and address of any experts who will express an opinion on a subject to be covered by an expert designated by an adverse party to the exchange, if the party supplementing an expert witness list has not previously retained an expert to testify on that subject.

(b) This supplemental list shall be accompanied by an expert witness declaration under subdivision (c) of Section 2034.260 concerning those additional experts, and by all discoverable reports and writings, if any, made by those additional experts.

(c) The party shall also make those experts available immediately for a deposition under Article 3 (commencing with Section 2034.410), which deposition may be taken even though the time limit for discovery under Chapter 8 (commencing with Section 2024.010) has expired.

2034.290. (a) A demand for an exchange of information concerning expert trial witnesses, and any expert witness lists and declarations exchanged shall not be filed with the court.

(b) The party demanding the exchange shall retain both the original of the demand, with the original proof of service affixed, and the original of all expert witness lists and declarations exchanged in response to the demand until six months after final disposition of the action. At that time, all originals may be destroyed unless the court, on motion of any party and for good cause shown, orders that the originals be preserved for a longer period.

(c) Notwithstanding subdivisions (a) and (b), a demand for exchange of information concerning expert trial witnesses, and all expert witness lists and declarations exchanged in response to it, shall be lodged with the court when their contents become relevant to an issue in any pending matter in the action.

2034.300. Except as provided in Section 2034.310 and in Articles 4 (commencing with Section 2034.610) and 5 (commencing with Section 2034.710), on objection of any party who has made a complete and timely compliance with Section 2034.260, the trial court shall exclude from evidence the expert opinion of any witness that is offered by any party who has unreasonably failed to do any of the following:

(a) List that witness as an expert under Section 2034.260.

(b) Submit an expert witness declaration.

(c) Produce reports and writings of expert witnesses under Section 2034.270.

(d) Make that expert available for a deposition under Article 3 (commencing with Section 2034.410).

2034.310. A party may call as a witness at trial an expert not previously designated by that party if either of the following conditions is satisfied:

(a) That expert has been designated by another party and has thereafter been deposed under Article 3 (commencing with Section 2034.410).

(b) That expert is called as a witness to impeach the testimony of an expert witness offered by any other party at the trial. This impeachment may include testimony to the falsity or nonexistence of any fact used as the foundation for any opinion by any other party's expert witness, but may not include testimony that contradicts the opinion.

Article 3. Deposition of Expert Witness

2034.410. On receipt of an expert witness list from a party, any other party may take the deposition of any person on the list. The procedures for taking oral and written depositions set forth in Chapters 9

(commencing with Section 2025.010), 10 (commencing with Section 2026.010), and 11 (commencing with Section 2028.010) apply to a deposition of a listed trial expert witness except as provided in this article.

2034.420. The deposition of any expert described in subdivision (b) of Section 2034.260 shall be taken at a place that is within 75 miles of the courthouse where the action is pending. On motion for a protective order by the party designating an expert witness, and on a showing of exceptional hardship, the court may order that the deposition be taken at a more distant place from the courthouse.

2034.430. (a) Except as provided in subdivision (f), this section applies to an expert witness, other than a party or an employee of a party, who is any of the following:

(1) An expert described in subdivision (b) of Section 2034.260.

(2) A treating physician and surgeon or other treating health care practitioner who is to be asked during the deposition to express opinion testimony, including opinion or factual testimony regarding the past or present diagnosis or prognosis made by the practitioner or the reasons for a particular treatment decision made by the practitioner, but not including testimony requiring only the reading of words and symbols contained in the relevant medical record or, if those words and symbols are not legible to the deponent, the approximation by the deponent of what those words or symbols are.

(3) An architect, professional engineer, or licensed land surveyor who was involved with the original project design or survey for which that person is asked to express an opinion within the person's expertise and relevant to the action or proceeding.

(b) A party desiring to depose an expert witness described in subdivision (a) shall pay the expert's reasonable and customary hourly or daily fee for any time spent at the deposition from the time noticed in the deposition subpoena, or from the time of the arrival of the expert witness should that time be later than the time noticed in the deposition subpoena, until the time the expert witness is dismissed from the deposition, regardless of whether the expert is actually deposed by any party attending the deposition.

(c) If any counsel representing the expert or a nonnoticing party is late to the deposition, the expert's reasonable and customary hourly or daily fee for the time period determined from the time noticed in the deposition subpoena until the counsel's late arrival, shall be paid by that tardy counsel.

(d) Notwithstanding subdivision (c), the hourly or daily fee charged to the tardy counsel shall not exceed the fee charged to the party who retained the expert, except where the expert donated services to a charitable or other nonprofit organization.

(e) A daily fee shall only be charged for a full day of attendance at a deposition or where the expert was required by the deposing party to be available for a full day and the expert necessarily had to forego all business that the expert would otherwise have conducted that day but for the request that the expert be available all day for the scheduled deposition.

(f) In a worker's compensation case arising under Division 4 (commencing with Section 3201) or Division 4.5 (commencing with Section 6100) of the Labor Code, a party desiring to depose any expert on another party's expert witness list shall pay the fee under this section.

2034.440. The party designating an expert is responsible for any fee charged by the expert for preparing for a deposition and for traveling to the place of the deposition, as well as for any travel expenses of the expert.

2034.450. (a) The party taking the deposition of an expert witness shall either accompany the service of the deposition notice with a tender of the expert's fee based on the anticipated length of the deposition, or tender that fee at the commencement of the deposition.

(b) The expert's fee shall be delivered to the attorney for the party designating the expert.

(c) If the deposition of the expert takes longer than anticipated, the party giving notice of the deposition shall pay the balance of the expert's fee within five days of receipt of an itemized statement from the expert.

2034.460. (a) The service of a proper deposition notice accompanied by the tender of the expert witness fee described in Section 2034.430 is effective to require the party employing or retaining the expert to produce the expert for the deposition.

(b) If the party noticing the deposition fails to tender the expert's fee under Section 2034.430, the expert shall not be deposed at that time unless the parties stipulate otherwise.

2034.470. (a) If a party desiring to take the deposition of an expert witness under this article deems that the hourly or daily fee of that expert for providing deposition testimony is unreasonable, that party may move for an order setting the compensation of that expert. Notice of this motion shall also be given to the expert.

(b) A motion under subdivision (a) shall be accompanied by a meet and confer declaration under Section 2016.040. In any attempt at an informal resolution under Section 2016.040, either the party or the expert shall provide the other with all of the following:

(1) Proof of the ordinary and customary fee actually charged and received by that expert for similar services provided outside the subject litigation.

(2) The total number of times the presently demanded fee has ever been charged and received by that expert.

(3) The frequency and regularity with which the presently demanded fee has been charged and received by that expert within the two-year period preceding the hearing on the motion.

(c) In addition to any other facts or evidence, the expert or the party designating the expert shall provide, and the court's determination as to the reasonableness of the fee shall be based on, proof of the ordinary and customary fee actually charged and received by that expert for similar services provided outside the subject litigation.

(d) In an action filed after January 1, 1994, the expert or the party designating the expert shall also provide, and the court's determination as to the reasonableness of the fee shall also be based on, both of the following:

(1) The total number of times the presently demanded fee has ever been charged and received by that expert.

(2) The frequency and regularity with which the presently demanded fee has been charged and received by that expert within the two-year period preceding the hearing on the motion.

(e) The court may also consider the ordinary and customary fees charged by similar experts for similar services within the relevant community and any other factors the court deems necessary or appropriate to make its determination.

(f) Upon a determination that the fee demanded by that expert is unreasonable, and based upon the evidence and factors considered, the court shall set the fee of the expert providing testimony.

(g) The court shall impose a monetary sanction under Chapter 7 (commencing with Section 2034.010) against any party, person, or attorney who unsuccessfully makes or opposes a motion to set the expert witness fee, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

Article 4. Motion To Augment or Amend Expert Witness List or Declaration

2034.610. (a) On motion of any party who has engaged in a timely exchange of expert witness information, the court may grant leave to do either or both of the following:

(1) Augment that party's expert witness list and declaration by adding the name and address of any expert witness whom that party has subsequently retained.

(2) Amend that party's expert witness declaration with respect to the general substance of the testimony that an expert previously designated is expected to give.

(b) A motion under subdivision (a) shall be made at a sufficient time in advance of the time limit for the completion of discovery under Chapter 8 (commencing with Section 2024.010) to permit the deposition of any expert to whom the motion relates to be taken within that time limit. Under exceptional circumstances, the court may permit the motion to be made at a later time.

(c) The motion shall be accompanied by a meet and confer declaration under Section 2016.040.

2034.620. The court shall grant leave to augment or amend an expert witness list or declaration only if all of the following conditions are satisfied:

(a) The court has taken into account the extent to which the opposing party has relied on the list of expert witnesses.

(b) The court has determined that any party opposing the motion will not be prejudiced in maintaining that party's action or defense on the merits.

(c) The court has determined either of the following:

(1) The moving party would not in the exercise of reasonable diligence have determined to call that expert witness or have decided to offer the different or additional testimony of that expert witness.

(2) The moving party failed to determine to call that expert witness, or to offer the different or additional testimony of that expert witness as a result of mistake, inadvertence, surprise, or excusable neglect, and the moving party has done both of the following:

(A) Sought leave to augment or amend promptly after deciding to call the expert witness or to offer the different or additional testimony.

(B) Promptly thereafter served a copy of the proposed expert witness information concerning the expert or the testimony described in Section 2034.260 on all other parties who have appeared in the action.

(d) Leave to augment or amend is conditioned on the moving party making the expert available immediately for a deposition under Article 3 (commencing with Section 2034.410), and on any other terms as may be just, including, but not limited to, leave to any party opposing the motion to designate additional expert witnesses or to elicit additional opinions from those previously designated, a continuance of the trial for a reasonable period of time, and the awarding of costs and litigation expenses to any party opposing the motion.

2034.630. The court shall impose a monetary sanction under Chapter 7 (commencing with Section 2023.010) against any party, person, or attorney who unsuccessfully makes or opposes a motion to augment or amend expert witness information, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

Article 5. Motion To Submit Tardy Expert Witness Information

2034.710. (a) On motion of any party who has failed to submit expert witness information on the date specified in a demand for that exchange, the court may grant leave to submit that information on a later date.

(b) A motion under subdivision (a) shall be made a sufficient time in advance of the time limit for the completion of discovery under Chapter 8 (commencing with Section 2024.010) to permit the deposition of any expert to whom the motion relates to be taken within that time limit. Under exceptional circumstances, the court may permit the motion to be made at a later time.

(c) The motion shall be accompanied by a meet and confer declaration under Section 2016.040.

2034.720. The court shall grant leave to submit tardy expert witness information only if all of the following conditions are satisfied:

(a) The court has taken into account the extent to which the opposing party has relied on the absence of a list of expert witnesses.

(b) The court has determined that any party opposing the motion will not be prejudiced in maintaining that party's action or defense on the merits.

(c) The court has determined that the moving party did all of the following:

(1) Failed to submit the information as the result of mistake, inadvertence, surprise, or excusable neglect.

(2) Sought leave to submit the information promptly after learning of the mistake, inadvertence, surprise, or excusable neglect.

(3) Promptly thereafter served a copy of the proposed expert witness information described in Section 2034.260 on all other parties who have appeared in the action.

(d) The order is conditioned on the moving party making the expert available immediately for a deposition under Article 3 (commencing with Section 2034.410), and on any other terms as may be just, including, but not limited to, leave to any party opposing the motion to designate additional expert witnesses or to elicit additional opinions from those previously designated, a continuance of the trial for a reasonable period of time, and the awarding of costs and litigation expenses to any party opposing the motion.

2034.730. The court shall impose a monetary sanction under Chapter 7 (commencing with Section 2023.010) against any party, person, or attorney who unsuccessfully makes or opposes a motion to submit tardy expert witness information, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

CHAPTER 19. PERPETUATION OF TESTIMONY OR PRESERVATION OF EVIDENCE BEFORE FILING ACTION

2035.010. (a) One who expects to be a party to any action that may be cognizable in any court of the State of California, whether as a plaintiff, or as a defendant, or in any other capacity, may obtain discovery within the scope delimited by Chapters 2 (commencing with Section 2017.010) and 3 (commencing with Section 2017.710), and subject to the restrictions set forth in Chapter 5 (commencing with Section 2019.010), for the purpose of perpetuating that party's own testimony or that of another natural person or organization, or of preserving evidence for use in the event an action is subsequently filed.

(b) One shall not employ the procedures of this chapter for the purpose either of ascertaining the possible existence of a cause of action or a defense to it, or of identifying those who might be made parties to an action not yet filed.

2035.020. The methods available for discovery conducted for the purposes set forth in Section 2035.010 are all of the following:

- (a) Oral and written depositions.
- (b) Inspections of documents, things, and places.
- (c) Physical and mental examinations.

2035.030. (a) One who desires to perpetuate testimony or preserve evidence for the purposes set forth in Section 2035.010 shall file a verified petition in the superior court of the county of the residence of at least one expected adverse party, or, if no expected adverse party is a resident of the State of California, in the superior court of a county where the action or proceeding may be filed.

(b) The petition shall be titled in the name of the one who desires the perpetuation of testimony or the preservation of evidence. The petition shall set forth all of the following:

- (1) The expectation that the petitioner will be a party to an action cognizable in a court of the State of California.
- (2) The present inability of the petitioner either to bring that action or to cause it to be brought.
- (3) The subject matter of the expected action and the petitioner's involvement.
- (4) The particular discovery methods described in Section 2035.020 that the petitioner desires to employ.
- (5) The facts that the petitioner desires to establish by the proposed discovery.
- (6) The reasons for desiring to perpetuate or preserve these facts before an action has been filed.
- (7) The name or a description of those whom the petitioner expects to be adverse parties so far as known.

(8) The name and address of those from whom the discovery is to be sought.

(9) The substance of the information expected to be elicited from each of those from whom discovery is being sought.

(c) The petition shall request the court to enter an order authorizing the petitioner to engage in discovery by the described methods for the purpose of perpetuating the described testimony or preserving the described evidence.

2035.040. (a) The petitioner shall cause service of a notice of the petition under Section 2035.030 to be made on each natural person or organization named in the petition as an expected adverse party. This service shall be made in the same manner provided for the service of a summons.

(b) The service of the notice shall be accompanied by a copy of the petition. The notice shall state that the petitioner will apply to the court at a time and place specified in the notice for the order requested in the petition.

(c) This service shall be effected at least 20 days prior to the date specified in the notice for the hearing on the petition.

(d) If after the exercise of due diligence, the petitioner is unable to cause service to be made on any expected adverse party named in the petition, the court in which the petition is filed shall make an order for service by publication.

(e) If any expected adverse party served by publication does not appear at the hearing, the court shall appoint an attorney to represent that party for all purposes, including the cross-examination of any person whose testimony is taken by deposition. The court shall order that the petitioner pay the reasonable fees and expenses of any attorney so appointed.

2035.050. (a) If the court determines that all or part of the discovery requested under this chapter may prevent a failure or delay of justice, it shall make an order authorizing that discovery.

(b) The order shall identify any witness whose deposition may be taken, and any documents, things, or places that may be inspected, and any person whose physical or mental condition may be examined.

(c) Any authorized depositions, inspections, and physical or mental examinations shall then be conducted in accordance with the provisions of this title relating to those methods of discovery in actions that have been filed.

2035.060. If a deposition to perpetuate testimony has been taken either under the provisions of this chapter, or under comparable provisions of the laws of another state, or the federal courts, or a foreign nation, that deposition may be used, in any action involving the same subject matter that is brought in a court of the State of California, in

accordance with Section 2025.620 against any party, or the successor in interest of any party, named in the petition as an expected adverse party.

CHAPTER 20. PERPETUATION OF TESTIMONY OR PRESERVATION OF
INFORMATION PENDING APPEAL

2036.010. If an appeal has been taken from a judgment entered by any court of the State of California, or if the time for taking an appeal has not expired, a party may obtain discovery within the scope delimited by Chapters 2 (commencing with Section 2017.010) and 3 (commencing with Section 2017.710), and subject to the restrictions set forth in Chapter 5 (commencing with Section 2019.010), for the purpose of perpetuating testimony or preserving information for use in the event of further proceedings in that court.

2036.020. The methods available for discovery for the purpose set forth in Section 2036.010 are all of the following:

- (a) Oral and written depositions.
- (b) Inspections of documents, things, and places.
- (c) Physical and mental examinations.

2036.030. (a) A party who desires to obtain discovery pending appeal shall obtain leave of the court that entered the judgment. This motion shall be made on the same notice to and service of parties as is required for discovery sought in an action pending in that court.

(b) The motion for leave to conduct discovery pending appeal shall set forth all of the following:

- (1) The names and addresses of the natural persons or organizations from whom the discovery is being sought.
- (2) The particular discovery methods described in Section 2036.020 for which authorization is being sought.
- (3) The reasons for perpetuating testimony or preserving evidence.

2036.040. (a) If the court determines that all or part of the discovery requested under this chapter may prevent a failure or delay of justice in the event of further proceedings in the action in that court, it shall make an order authorizing that discovery.

(b) The order shall identify any witness whose deposition may be taken, and any documents, things, or places that may be inspected, and any person whose physical or mental condition may be examined.

(c) Any authorized depositions, inspections, and physical and mental examinations shall then be conducted in accordance with the provisions of this title relating to these methods of discovery in a pending action.

2036.050. If a deposition to perpetuate testimony has been taken under the provisions of this chapter, it may be used in any later proceeding in accordance with Section 2025.620.

SEC. 23.5. Section 2016.060 is added to the Code of Civil Procedure, to read:

2016.060. When the last day to perform or complete any act provided for in this title falls on a Saturday, Sunday, or holiday as specified in Section 10, the time limit is extended until the next court day closer to the trial date.

SEC. 24. Section 2093 of the Code of Civil Procedure is amended to read:

2093. (a) Every court, every judge, or clerk of any court, every justice, and every notary public, and every officer or person authorized to take testimony in any action or proceeding, or to decide upon evidence, has the power to administer oaths or affirmations.

(b) (1) Every shorthand reporter certified pursuant to Article 3 (commencing with Section 8020) of Chapter 13 of Division 3 of the Business and Professions Code has the power to administer oaths or affirmations and may perform the duties of the deposition officer pursuant to Chapter 9 (commencing with Section 2025.010) of Title 4. The certified shorthand reporter shall be entitled to receive fees for services rendered during a deposition, including fees for deposition services, as specified in subdivision (c) of Section 8211 of the Government Code.

(2) This subdivision shall also apply to depositions taken by telephone or other remote electronic means as specified in Chapter 2 (commencing with Section 2017.010), Chapter 3 (commencing with Section 2017.710), and Chapter 9 (commencing with Section 2025.010) of Title 4.

(c) A former judge or justice of a court of record in this state who retired or resigned from office, other than a judge or justice who was retired by the Supreme Court for disability, shall have the power to administer oaths or affirmations, if the former judge or justice requests and receives a certification from the Commission on Judicial Performance that there was no formal disciplinary proceeding pending at the time of retirement or resignation. Where no formal disciplinary proceeding was pending at the time of retirement or resignation, the Commission on Judicial Performance shall issue the certification.

No law, rule, or regulation regarding the confidentiality of proceedings of the Commission on Judicial Performance shall be construed to prohibit the Commission on Judicial Performance from issuing a certificate as provided for in this section.

SEC. 25. Section 45312 of the Education Code is amended to read:

45312. The commission may authorize a hearing officer or other representative to conduct any hearing or investigation which the commission itself is authorized by this article to conduct. Any such authorized person conducting such hearing or investigation may

administer oaths, subpoena and require the attendance of witnesses and the production of books or papers, and cause the depositions of witnesses to be taken in the manner prescribed by law for like depositions in civil cases in the superior court of this state under Title 4 (commencing with Section 2016.010) of Part 4 of the Code of Civil Procedure. The commission may instruct such authorized representative to present findings or recommendations. The commission may accept, reject or amend any of the findings or recommendations of the said authorized representative. Any rejection or amendment of findings or recommendations shall be based either on a review of the transcript of the hearing or investigation or upon the results of such supplementary hearing or investigation as the commission may order.

The commission may employ by contract or as professional experts or otherwise any such hearing officers or other representatives and may adopt and amend such rules and procedures as may be necessary to effectuate this section.

SEC. 26. Section 87675 of the Education Code is amended to read:

87675. The arbitrator shall conduct proceedings in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, except that the right of discovery of the parties shall not be limited to those matters set forth in Section 11507.6 of the Government Code but shall include the rights and duties of any party in a civil action brought in a superior court under Title 4 (commencing with Section 2016.010) of Part 4 of the Code of Civil Procedure. In all cases, discovery shall be completed prior to one week before the date set for hearing. The arbitrator shall determine whether there is cause to dismiss or penalize the employee. If the arbitrator finds cause, the arbitrator shall determine whether the employee shall be dismissed, the precise penalty to be imposed, and whether the decision should be imposed immediately or postponed pursuant to Section 87672.

No witness shall be permitted to testify at the hearing except upon oath or affirmation. No testimony shall be given or evidence introduced relating to matters that occurred more than four years prior to the date of the filing of the notice. Evidence of records regularly kept by the governing board concerning the employee may be introduced, but no decision relating to the dismissal or suspension of any employee shall be made based on charges or evidence of any nature relating to matters occurring more than four years prior to the filing of the notice.

SEC. 27. Section 87679 of the Education Code is amended to read:

87679. The administrative law judge shall conduct proceedings in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, except that the right of discovery of the parties shall not be limited to those matters set forth

in Section 11507.6 of the Government Code but shall include the rights and duties of any party in a civil action brought in a superior court under Title 4 (commencing with Section 2016.010) of Part 4 of the Code of Civil Procedure. In all cases, discovery shall be completed prior to one week before the date set for hearing. The written notice delivered to the employee pursuant to Section 87672 shall be deemed an accusation. The written objection of the employee delivered pursuant to Section 87673 shall be deemed the notice of defense.

SEC. 28. Section 88131 of the Education Code is amended to read:

88131. The commission may authorize a hearing officer or other representative to conduct any hearing or investigation which the commission itself is authorized by this article to conduct. Any such authorized person conducting such hearing or investigation may administer oaths, subpoena and require the attendance of witnesses and the production of books or papers, and cause the depositions of witnesses to be taken in the manner prescribed by law for like depositions in civil cases in the superior court of this state under Title 4 (commencing with Section 2016.010) of Part 4 of the Code of Civil Procedure. The commission may instruct such authorized representative to present findings or recommendations. The commission may accept, reject or amend any of the findings or recommendations of the said authorized representative. Any rejection or amendment of findings or recommendations shall be based either on a review of the transcript of the hearing or investigation or upon the results of such supplementary hearing or investigation as the commission may order.

The commission may employ by contract or as professional experts or otherwise any such hearing officers or other representatives and may adopt and amend such rules and procedures as may be necessary to effectuate this section.

SEC. 29. Section 915 of the Evidence Code is amended to read:

915. (a) Subject to subdivision (b), the presiding officer may not require disclosure of information claimed to be privileged under this division or attorney work product under subdivision (a) of Section 2018.030 of the Code of Civil Procedure in order to rule on the claim of privilege; provided, however, that in any hearing conducted pursuant to subdivision (c) of Section 1524 of the Penal Code in which a claim of privilege is made and the court determines that there is no other feasible means to rule on the validity of the claim other than to require disclosure, the court shall proceed in accordance with subdivision (b).

(b) When a court is ruling on a claim of privilege under Article 9 (commencing with Section 1040) of Chapter 4 (official information and identity of informer) or under Section 1060 (trade secret) or under subdivision (b) of Section 2018.030 of the Code of Civil Procedure (attorney work product) and is unable to do so without requiring

disclosure of the information claimed to be privileged, the court may require the person from whom disclosure is sought or the person authorized to claim the privilege, or both, to disclose the information in chambers out of the presence and hearing of all persons except the person authorized to claim the privilege and any other persons as the person authorized to claim the privilege is willing to have present. If the judge determines that the information is privileged, neither the judge nor any other person may ever disclose, without the consent of a person authorized to permit disclosure, what was disclosed in the course of the proceedings in chambers.

SEC. 30. Section 1156 of the Evidence Code is amended to read:

1156. (a) In-hospital medical or medical-dental staff committees of a licensed hospital may engage in research and medical or dental study for the purpose of reducing morbidity or mortality, and may make findings and recommendations relating to such purpose. Except as provided in subdivision (b), the written records of interviews, reports, statements, or memoranda of such in-hospital medical or medical-dental staff committees relating to such medical or dental studies are subject to Title 4 (commencing with Section 2016.010) of Part 4 of the Code of Civil Procedure (relating to discovery proceedings) but, subject to subdivisions (c) and (d), shall not be admitted as evidence in any action or before any administrative body, agency, or person.

(b) The disclosure, with or without the consent of the patient, of information concerning him to such in-hospital medical or medical-dental staff committee does not make unprivileged any information that would otherwise be privileged under Section 994 or 1014; but, notwithstanding Sections 994 and 1014, such information is subject to discovery under subdivision (a) except that the identity of any patient may not be discovered under subdivision (a) unless the patient consents to such disclosure.

(c) This section does not affect the admissibility in evidence of the original medical or dental records of any patient.

(d) This section does not exclude evidence which is relevant evidence in a criminal action.

SEC. 31. Section 1156.1 of the Evidence Code is amended to read:

1156.1. (a) A committee established in compliance with Sections 4070 and 5624 of the Welfare and Institutions Code may engage in research and medical or psychiatric study for the purpose of reducing morbidity or mortality, and may make findings and recommendations to the county and state relating to such purpose. Except as provided in subdivision (b), the written records of interviews, reports, statements, or memoranda of such committees relating to such medical or psychiatric studies are subject to Title 4 (commencing with Section 2016.010) of Part 4 of the Code of Civil Procedure but, subject to subdivisions (c) and

(d), shall not be admitted as evidence in any action or before any administrative body, agency, or person.

(b) The disclosure, with or without the consent of the patient, of information concerning him or her to such committee does not make unprivileged any information that would otherwise be privileged under Section 994 or 1014. However, notwithstanding Sections 994 and 1014, such information is subject to discovery under subdivision (a) except that the identity of any patient may not be discovered under subdivision (a) unless the patient consents to such disclosure.

(c) This section does not affect the admissibility in evidence of the original medical or psychiatric records of any patient.

(d) This section does not exclude evidence which is relevant evidence in a criminal action.

SEC. 32. Section 1560 of the Evidence Code is amended to read: 1560. (a) As used in this article:

(1) "Business" includes every kind of business described in Section 1270.

(2) "Record" includes every kind of record maintained by a business.

(b) Except as provided in Section 1564, when a subpoena duces tecum is served upon the custodian of records or other qualified witness of a business in an action in which the business is neither a party nor the place where any cause of action is alleged to have arisen, and the subpoena requires the production of all or any part of the records of the business, it is sufficient compliance therewith if the custodian or other qualified witness, within five days after the receipt of the subpoena in any criminal action or within the time agreed upon by the party who served the subpoena and the custodian or other qualified witness, or within 15 days after the receipt of the subpoena in any civil action or within the time agreed upon by the party who served the subpoena and the custodian or other qualified witness, delivers by mail or otherwise a true, legible, and durable copy of all the records described in the subpoena to the clerk of the court or to another person described in subdivision (d) of Section 2026.010 of the Code of Civil Procedure, together with the affidavit described in Section 1561.

(c) The copy of the records shall be separately enclosed in an inner envelope or wrapper, sealed, with the title and number of the action, name of witness, and date of subpoena clearly inscribed thereon; the sealed envelope or wrapper shall then be enclosed in an outer envelope or wrapper, sealed, and directed as follows:

(1) If the subpoena directs attendance in court, to the clerk of the court.

(2) If the subpoena directs attendance at a deposition, to the officer before whom the deposition is to be taken, at the place designated in the

subpoena for the taking of the deposition or at the officer's place of business.

(3) In other cases, to the officer, body, or tribunal conducting the hearing, at a like address.

(d) Unless the parties to the proceeding otherwise agree, or unless the sealed envelope or wrapper is returned to a witness who is to appear personally, the copy of the records shall remain sealed and shall be opened only at the time of trial, deposition, or other hearing, upon the direction of the judge, officer, body, or tribunal conducting the proceeding, in the presence of all parties who have appeared in person or by counsel at the trial, deposition, or hearing. Records which are original documents and which are not introduced in evidence or required as part of the record shall be returned to the person or entity from whom received. Records which are copies may be destroyed.

(e) As an alternative to the procedures described in subdivisions (b), (c), and (d), the subpoenaing party may direct the witness to make the records available for inspection or copying by the party's attorney, the attorney's representative, or deposition officer as described in Section 2020.420 of the Code of Civil Procedure, at the witness' business address under reasonable conditions during normal business hours. Normal business hours, as used in this subdivision, means those hours that the business of the witness is normally open for business to the public. When provided with at least five business days' advance notice by the party's attorney, attorney's representative, or deposition officer, the witness shall designate a time period of not less than six continuous hours on a date certain for copying of records subject to the subpoena by the party's attorney, attorney's representative or deposition officer. It shall be the responsibility of the attorney's representative to deliver any copy of the records as directed in the subpoena. Disobedience to the deposition subpoena issued pursuant to this subdivision is punishable as provided in Section 2020.240 of the Code of Civil Procedure.

SEC. 33. Section 3110.5 of the Family Code is amended to read:

3110.5. (a) No person shall be a court-connected or private child custody evaluator under this chapter unless the person has completed the domestic violence and child abuse training program described in Section 1816 and has complied with Rules 1257.3 and 1257.7 of the California Rules of Court.

(b) (1) On or before January 1, 2002, the Judicial Council shall formulate a statewide rule of court that establishes education, experience, and training requirements for all child custody evaluators appointed pursuant to this chapter, Section 730 of the Evidence Code, or Chapter 15 (commencing with Section 2032.010) of Title 4 of Part 4 of the Code of Civil Procedure.

(A) The rule shall require a child custody evaluator to declare under penalty of perjury that he or she meets all of the education, experience, and training requirements specified in the rule and, if applicable, possesses a license in good standing. The Judicial Council shall establish forms to implement this section. The rule shall permit court-connected evaluators to conduct evaluations if they meet all of the qualifications established by the Judicial Council. The education, experience, and training requirements to be specified for court-connected evaluators shall include, but shall not be limited to, knowledge of the psychological and developmental needs of children and parent-child relationships.

(B) The rule shall require all evaluators to utilize comparable interview, assessment, and testing procedures for all parties that are consistent with generally accepted clinical, forensic, scientific, diagnostic, or medical standards. The rule shall also require evaluators to inform each adult party of the purpose, nature, and method of the evaluation.

(C) The rule may allow courts to permit the parties to stipulate to an evaluator of their choosing with the approval of the court under the circumstances set forth in subdivision (d). The rule may require courts to provide general information about how parties can contact qualified child custody evaluators in their county.

(2) On or before January 1, 2004, the Judicial Council shall include in the statewide rule of court created pursuant to this section a requirement that all court-connected and private child custody evaluators receive training in the nature of child sexual abuse. The Judicial Council shall develop standards for this training that shall include, but not be limited to, the following:

(A) Children's patterns of hiding and disclosing sexual abuse occurring in a family setting.

(B) The effects of sexual abuse on children.

(C) The nature and extent of child sexual abuse.

(D) The social and family dynamics of child sexual abuse.

(E) Techniques for identifying and assisting families affected by child sexual abuse.

(F) Legal rights, protections, and remedies available to victims of child sexual abuse.

(c) In addition to the education, experience, and training requirements established by the Judicial Council pursuant to subdivision (b), on or after January 1, 2005, no person shall be a child custody evaluator under this chapter, Section 730 of the Evidence Code, or Chapter 15 (commencing with Section 2032.010) of Title 4 of Part 4 of the Code of Civil Procedure unless the person meets one of the following criteria:

(1) He or she is licensed as a physician under Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code and either is a board certified psychiatrist or has completed a residency in psychiatry.

(2) He or she is licensed as a psychologist under Chapter 6.6 (commencing with Section 2900) of Division 2 of the Business and Professions Code.

(3) He or she is licensed as a marriage and family therapist under Chapter 13 (commencing with Section 4980) of Division 2 of the Business and Professions Code.

(4) He or she is licensed as a clinical social worker under Article 4 (commencing with Section 4996) of Chapter 14 of Division 2 of the Business and Professions Code.

(5) He or she is a court-connected evaluator who has been certified by the court as meeting all of the qualifications for court-connected evaluators as specified by the Judicial Council pursuant to subdivision (b).

(d) Subdivision (c) shall not apply in any case where the court determines that there are no evaluators who meet the criteria of subdivision (c) who are willing and available, within a reasonable period of time, to perform child custody evaluations. In those cases, the parties may stipulate to an individual who does not meet the criteria of subdivision (c), subject to approval by the court.

(e) A child custody evaluator who is licensed by the Medical Board of California, the Board of Psychology, or the Board of Behavioral Sciences shall be subject to disciplinary action by that board for unprofessional conduct, as defined in the licensing law applicable to that licensee.

(f) On or after January 1, 2005, a court-connected or private child custody evaluator shall not evaluate, investigate, or mediate an issue of child custody in a proceeding pursuant to this division unless that person has completed child sexual abuse training as required by this section.

SEC. 34. Section 3666 of the Family Code is amended to read:

3666. This article may be enforced in the manner specified in Sections 1991, 1991.1, 1991.2, 1992, and 1993 of the Code of Civil Procedure and in the Civil Discovery Act (Title 4 (commencing with Section 2016.010) of Part 4 of the Code of Civil Procedure), and any other statutes applicable to the enforcement of procedures for discovery.

SEC. 35. Section 4331 of the Family Code is amended to read:

4331. (a) In a proceeding for dissolution of marriage or for legal separation of the parties, the court may order a party to submit to an examination by a vocational training counselor. The examination shall include an assessment of the party's ability to obtain employment based upon the party's age, health, education, marketable skills, employment

history, and the current availability of employment opportunities. The focus of the examination shall be on an assessment of the party's ability to obtain employment that would allow the party to maintain herself or himself at the marital standard of living.

(b) The order may be made only on motion, for good cause, and on notice to the party to be examined and to all parties. The order shall specify the time, place, manner, conditions, scope of the examination, and the person or persons by whom it is to be made.

(c) A party who does not comply with an order under this section is subject to the same consequences provided for failure to comply with an examination ordered pursuant to Chapter 15 (commencing with Section 2032.010) of Title 4 of Part 4 of the Code of Civil Procedure.

(d) "Vocational training counselor" for the purpose of this section means an individual with sufficient knowledge, skill, experience, training, or education in interviewing, administering, and interpreting tests for analysis of marketable skills, formulating career goals, planning courses of training and study, and assessing the job market, to qualify as an expert in vocational training under Section 720 of the Evidence Code.

(e) A vocational training counselor shall have at least the following qualifications:

(1) A master's degree in the behavioral sciences.

(2) Be qualified to administer and interpret inventories for assessing career potential.

(3) Demonstrated ability in interviewing clients and assessing marketable skills with understanding of age constraints, physical and mental health, previous education and experience, and time and geographic mobility constraints.

(4) Knowledge of current employment conditions, job market, and wages in the indicated geographic area.

(5) Knowledge of education and training programs in the area with costs and time plans for these programs.

(f) The court may order the supporting spouse to pay, in addition to spousal support, the necessary expenses and costs of the counseling, retraining, or education.

SEC. 36. Section 309 of the Fish and Game Code is amended to read:

309. (a) The commission or any person appointed by it to conduct a hearing may, in any investigation or hearing, cause the deposition of witnesses, residing within or without the state, to be taken in the manner prescribed by law for deposition in civil actions in the superior courts of this state under Title 4 (commencing with Section 2016.010) of Part 4 of the Code of Civil Procedure, and may compel the attendance of witnesses and the production of documents and papers. The commission shall adopt regulations that afford procedural and substantive due

process to any person whose license or permit is subject to revocation or suspension. Except upon conviction of a violation of this code or a regulation adopted pursuant to this code relating to the licensed or permitted activity and notwithstanding any other provision of this code, the commission shall not revoke or suspend any license or permit until the regulations required by this section have been adopted and approved by the Office of Administrative Law pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) Any deliberation conducted by the commission, or conducted by any person appointed by the commission to conduct hearings, is deemed to be a proceeding required to be conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code or similar provision, within the meaning of paragraph (3) of subdivision (c) of Section 11126 of the Government Code.

SEC. 37. Section 5934 of the Fish and Game Code is amended to read:

5934. The commission or any party may, in any hearing, cause the deposition of witnesses to be taken in the manner prescribed by law for depositions in civil actions in the superior courts of this state under Title 4 (commencing with Section 2016.010) of Part 4 of the Code of Civil Procedure.

SEC. 38. Section 6276.04 of the Government Code is amended to read:

6276.04. Aeronautics Act, reports of investigations and hearings, Section 21693, Public Utilities Code.

Agricultural producers marketing, access to records, Section 59616, Food and Agricultural Code.

Aiding disabled voters, Section 14282, Elections Code.

Air pollution data, confidentiality of trade secrets, Section 6254.7, Government Code, and Sections 42303.2 and 43206, Health and Safety Code.

Air toxics emissions inventory plans, protection of trade secrets, Section 44346, Health and Safety Code.

Alcohol and drug abuse records and records of communicable diseases, confidentiality of, Section 123125, Health and Safety Code.

Apiary registration information, confidentiality of, Section 29041, Food and Agricultural Code.

Arrest not resulting in conviction, disclosure or use of records, Sections 432.7 and 432.8, Labor Code.

Arsonists, registered, confidentiality of certain information, Section 457.1, Penal Code.

Artificial insemination, donor not natural father, confidentiality of records, Section 7613, Family Code.

Assessor's records, confidentiality of information in, Section 408, Revenue and Taxation Code.

Assessor's records, confidentiality of information in, Section 451, Revenue and Taxation Code.

Assessor's records, display of documents relating to business affairs or property of another, Section 408.2, Revenue and Taxation Code.

Assigned risk plans, rejected applicants, confidentiality of information, Section 11624, Insurance Code.

Attorney applicant, investigation by State Bar, confidentiality of, Section 6060.2, Business and Professions Code.

Attorney-client confidential communication, Section 6068, Business and Professions Code and Sections 952, 954, 956, 956.5, 957, 958, 959, 960, 961, and 962, Evidence Code.

Attorney, disciplinary proceedings, confidentiality prior to formal proceedings, Section 6086.1, Business and Professions Code.

Attorney, disciplinary proceeding, State Bar access to nonpublic court records, Section 6090.6, Business and Professions Code.

Attorney, investigation by State Bar, confidentiality of, Section 6168, Business and Professions Code.

Attorney, law corporation, investigation by State Bar, confidentiality of, Section 6168, Business and Professions Code.

Attorney, State Bar survey information, confidentiality of, Section 6033, Business and Professions Code.

Attorney work product confidentiality in administrative adjudication, Section 11507.6, Government Code.

Attorney, work product, confidentiality of, Section 6202, Business and Professions Code.

Attorney work product, discovery, Chapter 4 (commencing with Section 2018.010), of Title 4, of Part 4 of the Code of Civil Procedure.

Auditor General, access to records for audit purposes, Sections 10527 and 10527.1, Government Code.

Auditor General, disclosure of audit records, Section 10525, Government Code.

Automobile Insurance Claims Depository, confidentiality of information, Section 1876.3, Insurance Code.

Automobile insurance, investigation of fraudulent claims, confidential information, Section 1872.8, Insurance Code.

Automotive repair facility, fact of certification or decertification, Section 9889.47, Business and Professions Code.

Automotive repair facility, notice of intent to seek certification, Section 9889.33, Business and Professions Code.

Avocado handler transaction records, confidentiality of, Sections 44982 and 44984, Food and Agricultural Code.

SEC. 39. Section 11045 of the Government Code is amended to read:

11045. (a) (1) Whenever a state agency requests the consent of the Attorney General to employ outside counsel, as required by Section 11040, the state agency shall within five business days of the date the request is transmitted to the Attorney General provide the designated representative of State Employees Bargaining Unit 2 with written notification of the request. The notice shall include the items enumerated in subdivision (d).

(2) All state agencies, other than the office of the Attorney General, that are not required to obtain the consent required by subdivision (c) of Section 11040, shall provide written notice of any proposed contract for outside legal counsel to the designated representative of State Employees Bargaining Unit 2 five business days prior to execution of the contract by the state agency. The notice shall include the items required by subdivision (d). In the event of an emergency that requires the immediate employment of outside counsel, the state agency shall provide the written notice no later than five business days after the contract with outside counsel is signed.

(3) Whenever the Attorney General determines the need to employ outside legal counsel pursuant to subdivision (b) of Section 12520, the Attorney General shall give written notice to the designated representative of State Employees Bargaining Unit 2 within 10 days of that determination. The notice shall include the items enumerated in subdivision (d).

(b) The Attorney General shall provide the designated representative of State Employees Bargaining Unit 2 with a written report, at least monthly, of all consents granted to every state agency pursuant to Section 11040.

(c) Notwithstanding the above notice requirements, whenever any state agency submits a proposed contract for outside counsel to the Department of General Services pursuant to Section 10335 of the Public Contract Code, the agency shall provide a copy of the contract to the designated representative of State Employees Bargaining Unit 2.

(d) "Written notice" within the meaning of this section shall include, but not be limited to, all of the following:

(1) A copy of the complaint or other pleadings, if any, that gave rise to the litigation or matter for which a contract is being sought, or other identifying information.

(2) The justification for the contract, pursuant to subdivision (b) of Section 19130.

(3) The nature of the legal services to be performed.

- (4) The estimated hourly wage to be paid under the contract.
- (5) The estimated length of the contract.
- (6) The identity of the person or entity that is entering into the contract with the state.

(e) "State agency," as used in this section, means every state office, department, division, bureau, board, or commission, including the Board of Directors of the State Compensation Insurance Fund, but does not include the Regents of the University of California, the Trustees of the California State University, the Legislature, the courts, or any agency in the judicial branch of government.

(f) (1) The notice requirements of this section do not apply to contracts for expert witnesses or consultations in connection with a confidential investigation or to any confidential component of a pending or active legal action.

(2) The exemption authorized in paragraph (1) shall only apply as long as necessary to protect the confidentiality of the investigation or the confidential component of a pending or active legal action.

(3) Disclosures made pursuant to this section are deemed to be privileged communications for purposes of subdivision (c) of Section 912 of the Evidence Code, and shall not be construed to be a waiver of any privilege or exemption provided by law, including, but not limited to, the lawyer-client privilege, as described in Section 952 of the Evidence Code, or attorney work product, as described in Chapter 4 (commencing with Section 2018.010) of Title 4 of Part 4 of the Code of Civil Procedure.

(g) If the provisions of this section are in conflict with the provisions of a memorandum of understanding or other written agreement reached pursuant to Section 3517 or 3517.5, the memorandum of understanding or agreement shall be controlling without further legislative action, except that if any provision of the memorandum of understanding or other agreement requires the expenditure of funds, the provisions may not become effective unless approved by the Legislature.

SEC. 40. Section 11187 of the Government Code is amended to read:

11187. (a) Except as provided in subdivision (c), if any witness refuses to answer any interrogatory or to attend or testify or produce or permit the inspection or copying of any papers or other items described in subdivision (e) of Section 11181 required by subpoena, the head of the department may petition the superior court in the county in which the hearing or investigation is pending or the county in which testimony is designated in the subpoena to be given or documents or other items are designated in the subpoena to be produced, for an order compelling the person to answer the interrogatories or to attend and testify or produce

and permit the inspection and copying of the papers or other items required by the subpoena before the officer named in the subpoena.

(b) The petition shall set forth all of the following:

(1) That due notice of the time and place for answering the interrogatories or testifying or the attendance of the person or the production of the papers or other items described in subdivision (e) of Section 11181 was given.

(2) That the person was subpoenaed or required to answer interrogatories in the manner prescribed in this article.

(3) That the person failed and refused to answer the interrogatories or to attend or testify or produce or permit the inspection or copying of the papers or other items required by subpoena before the officer in the cause or proceeding named in the subpoena, or has refused to answer questions propounded to him or her in the course of the investigation or hearing.

(c) If the witness named in the subpoena does not reside or conduct business in this state, the department head may seek to compel the witness' testimony and production, inspection, and copying of documents or other items described in subdivision (e) of Section 11181 in the manner provided for the enforcement of a deposition notice to a nonparty as described in Section 2026.010 or 2027.010 of the Code of Civil Procedure or in any other manner authorized by any law.

(d) If any witness objects and based on that objection refuses to answer any interrogatory or to attend or testify or produce or permit the inspection or copying of any papers or other items described in subdivision (e) of Section 11181 as required by a subpoena, the witness shall state the objection and the validity of the objection shall be determined exclusively in a proceeding brought by the head of the department to compel compliance as provided in this section.

SEC. 41. Section 11189 of the Government Code is amended to read:

11189. In any matter pending before a department head, the department head may cause the deposition of persons residing within or without the state to be taken by causing a petition to be filed in the Superior Court in the County of Sacramento reciting the nature of the matter pending, the name and residence of the person whose testimony is desired, and asking that an order be made requiring the person to appear and testify before an officer named in the petition for that purpose. Upon the filing of the petition the court may make an order requiring the person to appear and testify in the manner prescribed by law for like depositions in civil actions in the superior courts of this state under Title 4 (commencing with Section 2016.010) of Part 4 of the Code of Civil Procedure. In the same manner the superior courts may compel the attendance of persons as witnesses, and the production of papers, books, accounts, and documents, under Chapter 2 (commencing with

Section 1985) of Title 3 of Part 4 of the Code of Civil Procedure, and may punish for contempt.

SEC. 42. Section 11511 of the Government Code is amended to read:

11511. On verified petition of any party, an administrative law judge or, if an administrative law judge has not been appointed, an agency may order that the testimony of any material witness residing within or without the state be taken by deposition in the manner prescribed by law for depositions in civil actions under Title 4 (commencing with Section 2016.010) of Part 4 of the Code of Civil Procedure. The petition shall set forth the nature of the pending proceeding; the name and address of the witness whose testimony is desired; a showing of the materiality of the testimony; a showing that the witness will be unable or cannot be compelled to attend; and shall request an order requiring the witness to appear and testify before an officer named in the petition for that purpose. The petitioner shall serve notice of hearing and a copy of the petition on the other parties at least 10 days before the hearing. Where the witness resides outside the state and where the administrative law judge or agency has ordered the taking of the testimony by deposition, the agency shall obtain an order of court to that effect by filing a petition therefor in the superior court in Sacramento County. The proceedings thereon shall be in accordance with the provisions of Section 11189.

SEC. 43. Section 12972 of the Government Code is amended to read:

12972. (a) The commission shall conduct all actions and procedures in accordance with either of the following:

(1) Chapter 5 (commencing with Section 11500) of Part 1, except as otherwise specified by this part.

(2) Regulations adopted by the commission.

(b) In addition to the discovery available to each party pursuant to subdivision (a), the department and the respondent may each cause a single deposition to be taken in the manner prescribed by law for depositions in civil actions in the superior courts of this state under Title 4 (commencing with Section 2016.010) of Part 4 of the Code of Civil Procedure.

SEC. 44. Section 18671 of the Government Code is amended to read:

18671. Such hearings and investigations may be conducted by the board, any member, or any authorized representative of the board. Any authorized person conducting such hearing or investigation may administer oaths, subpoena and require the attendance of witnesses and the production of books or papers, and cause the depositions of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil cases in the superior court of this state

under Title 4 (commencing with Section 2016.010) of Part 4 of the Code of Civil Procedure.

SEC. 45. Section 68092.5 of the Government Code is amended to read:

68092.5. (a) A party requiring testimony before any court, tribunal, or arbiter in any civil action or proceeding from any expert witness, other than a party or employee of a party, who is either, (1) an expert described in subdivision (b) of Section 2034.210 of the Code of Civil Procedure, (2) a treating physician and surgeon or other treating health care practitioner who is to be asked to express an opinion during the action or proceeding, or (3) an architect, professional engineer, or licensed land surveyor who was involved with the original project design or survey for which he or she is asked to express an opinion within his or her expertise and relevant to the action or proceeding, shall pay the reasonable and customary hourly or daily fee for the actual time consumed in the examination of that witness by any party attending the action or proceeding. The hourly or daily fee shall not exceed the fee charged the party who retained the expert except where the expert donated his or her services to a charitable or other nonprofit organization. A daily fee shall only be charged for a full day of attendance at a deposition or where the expert was required by the deposing party to be available for a full day and the expert necessarily had to forego all business he or she would have otherwise conducted that day but for the request that he or she be available all day for the scheduled deposition.

The party requiring the attendance shall either accompany the service of the subpoena or notice with a tender of the expert's fee based on the anticipated length of time the expert is required to remain at such place pursuant to the notice or subpoena or tender that fee at the required time of appearance. The expert's fee shall be delivered to the attorney for the party designating the expert. If the appearance of the expert takes longer than anticipated, the party serving the subpoena or notice shall pay the balance of the expert's fee within five days of receipt of an itemized statement from the expert. The party designating the expert is responsible for any fee charged by the expert for preparing for the testimony and for traveling to the place of the civil action or proceeding, as well as for any travel expenses of the expert, unless otherwise determined by the court.

(b) The service of a proper subpoena or notice accompanied by the tender of the expert witness fee described in subdivision (a) is effective to require the party employing or retaining the expert to produce the expert for testimony. If the party serving the notice or subpoena fails to tender the expert's fee under subdivision (a), the expert shall not be required to appear at that time unless the parties stipulate otherwise.

(c) If a party requiring the appearance by subpoena or notice of another party's expert witness under this subdivision deems that the hourly or daily fee of that expert for providing testimony is unreasonable, that party may move for an order setting the compensation of that expert. This motion shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of each issue presented by the motion. Notice of this motion shall also be given to the expert.

In any such attempt at an informal resolution, either the party or the expert shall provide the other with (A) proof of the ordinary and customary fee actually charged and received by that expert for similar services provided outside the subject litigation, (B) the total number of times the presently demanded fee has ever been charged and received by that expert, and (C) the frequency and regularity with which the presently demanded fee has been charged and received by that expert within the two-year period preceding the hearing on the motion. Provisions (B) and (C) shall apply to actions filed after January 1, 1994.

In addition to any other facts or evidence, the expert or the party designating the expert shall provide, and the court's determination as to the reasonableness of the fee shall be based upon, (1) proof of the ordinary and customary fee actually charged and received by that expert for similar services provided outside the subject litigation, (2) the total number of times the presently demanded fee has ever been charged and received by that expert, and (3) the frequency and regularity with which the presently demanded and any other fee has been charged and received by that expert within the two-year period preceding the hearing on the motion. The court may also consider (4) the ordinary and customary fees charged by similar experts for similar services within the relevant community, and (5) any other factors the court deems necessary or appropriate to make its determination.

Upon a determination that the fee demanded by that expert is unreasonable, and based upon the evidence and factors considered, the court shall set the fee of the expert providing testimony.

(d) In the event the proceeding at which the expert witness has been notified his or her attendance is required is continued or canceled in advance of the time for which it is scheduled, such witness shall be notified of the continuance or cancellation by the party requiring his or her attendance by the quickest and most reliable means of giving notice under the circumstances. In the event such party fails to give notice as required by this subdivision, then the expert witness shall be entitled to receive the compensation specified in subdivision (a) of this section, notwithstanding his or her failure to give any testimony.

(e) An express contract entered into between a person and the party requesting or requiring the person to testify, relating to compensation, shall be enforceable and shall prevail over the provisions of this section.

(f) The deposition of an expert witness is governed by Chapter 18 (commencing with Section 2034.010) of Title 4 of Part 4 of the Code of Civil Procedure.

SEC. 46. Section 68616 of the Government Code is amended to read:

68616. Delay reduction rules shall not require shorter time periods than as follows:

(a) Service of the complaint within 60 days after filing. Exceptions, for longer periods of time, (1) may be granted as authorized by local rule and (2) shall be granted on a showing that service could not reasonably be achieved within the time required with the exercise of due diligence consistent with the amount in controversy.

(b) Service of responsive pleadings within 30 days after service of the complaint. The parties may stipulate to an additional 15 days. Exceptions, for longer periods of time, may be granted as authorized by local rule.

(c) Time for service of notice or other paper under Sections 1005 and 1013 of the Code of Civil Procedure and time to plead after service of summons under Section 412.20 of the Code of Civil Procedure shall not be shortened except as provided in those sections.

(d) Within 30 days of service of the responsive pleadings, the parties may, by stipulation filed with the court, agree to a single continuance not to exceed 30 days.

It is the intent of the Legislature that these stipulations not detract from the efforts of the courts to comply with standards of timely disposition. To this extent, the Judicial Council shall develop statistics that distinguish between cases involving, and not involving, these stipulations.

(e) No status conference, or similar event, other than a challenge to the jurisdiction of the court, may be required to be conducted sooner than 30 days after service of the first responsive pleadings, or no sooner than 30 days after expiration of a stipulated continuance, if any, pursuant to subdivision (d).

(f) Title 4 (commencing with Section 2016.010) of Part 4 of the Code of Civil Procedure shall govern discovery, except in arbitration proceedings.

(g) No case may be referred to arbitration prior to 210 days after the filing of the complaint, exclusive of the stipulated period provided for in subdivision (d). No rule adopted pursuant to this article may contravene Sections 638 and 639 of the Code of Civil Procedure.

(h) Unnamed (DOE) defendants shall not be dismissed prior to the conclusion of the introduction of evidence at trial, except upon stipulation or motion of the parties.

(i) Notwithstanding Section 170.6 of the Code of Civil Procedure, in direct calendar courts, challenges pursuant to that section shall be exercised within 15 days of the party's first appearance. Master calendar courts shall be governed solely by Section 170.6 of the Code of Civil Procedure.

(j) This section applies to all cases subject to this article which are filed on or after January 1, 1991.

(k) This section shall become operative on January 1, 2004.

SEC. 47. Section 5710 of the Labor Code is amended to read:

5710. (a) The appeals board, a workers' compensation judge, or any party to the action or proceeding, may, in any investigation or hearing before the appeals board, cause the deposition of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil actions in the superior courts of this state under Title 4 (commencing with Section 2016.010) of Part 4 of the Code of Civil Procedure. To that end the attendance of witnesses and the production of records may be required. Depositions may be taken outside the state before any officer authorized to administer oaths. The appeals board or a workers' compensation judge in any proceeding before the appeals board may cause evidence to be taken in other jurisdictions before the agency authorized to hear workers' compensation matters in those other jurisdictions.

(b) Where the employer or insurance carrier requests a deposition to be taken of an injured employee, or any person claiming benefits as a dependent of an injured employee, the deponent is entitled to receive in addition to all other benefits:

(1) All reasonable expenses of transportation, meals, and lodging incident to the deposition.

(2) Reimbursement for any loss of wages incurred during attendance at the deposition.

(3) A copy of the transcript of the deposition, without cost.

(4) A reasonable allowance for attorney's fees for the deponent, if represented by an attorney licensed by the State Bar of this state. The fee shall be discretionary with, and, if allowed, shall be set by, the appeals board, but shall be paid by the employer or his or her insurer.

(5) A reasonable allowance for interpreter's fees for the deponent, if interpretation services are needed and provided by a language interpreter certified or deemed certified pursuant to Article 8 (commencing with Section 11435.05) of Chapter 4.5 of Part 1 of Division 3 of Title 2 of, or Section 68566 of, the Government Code. The fee shall be in accordance with the fee schedule set by the administrative director and

paid by the employer or his or her insurer. Payment for interpreter's services shall be allowed for deposition of a non-English-speaking injured worker, and for any other deposition-related events as permitted by the administrative director.

SEC. 48. Section 6613 of the Labor Code is amended to read:

6613. The appeals board, a hearing officer, or any party to the action or proceeding, may, in any investigation or hearing before the appeals board, cause the deposition of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil actions in the superior courts of this state under Title 4 (commencing with Section 2016.010) of Part 4 of the Code of Civil Procedure. To that end the attendance of witnesses and the production of records may be required. Depositions may be taken outside the state before any officer authorized to administer oaths. The appeals board or a hearing officer in any proceeding before the appeals board may cause evidence to be taken in other jurisdictions before the agency authorized to hear similar matters in such other jurisdictions.

SEC. 49. Section 186.11 of the Penal Code is amended to read:

186.11. (a) (1) Any person who commits two or more related felonies, a material element of which is fraud or embezzlement, which involve a pattern of related felony conduct, and the pattern of related felony conduct involves the taking of more than one hundred thousand dollars (\$100,000), shall be punished, upon conviction of two or more felonies in a single criminal proceeding, in addition and consecutive to the punishment prescribed for the felony offenses of which he or she has been convicted, by an additional term of imprisonment in the state prison as specified in paragraph (2) or (3). This enhancement shall be known as the aggravated white collar crime enhancement. The aggravated white collar crime enhancement shall only be imposed once in a single criminal proceeding. For purposes of this section, "pattern of related felony conduct" means engaging in at least two felonies that have the same or similar purpose, result, principals, victims, or methods of commission, or are otherwise interrelated by distinguishing characteristics, and that are not isolated events. For purposes of this section, "two or more related felonies" means felonies committed against two or more separate victims, or against the same victim on two or more separate occasions.

(2) If the pattern of related felony conduct involves the taking of more than five hundred thousand dollars (\$500,000), the additional term of punishment shall be two, three, or five years in the state prison.

(3) If the pattern of related felony conduct involves the taking of more than one hundred thousand dollars (\$100,000), but not more than five hundred thousand dollars (\$500,000), the additional term of punishment

shall be the term specified in paragraph (1) or (2) of subdivision (a) of Section 12022.6.

(b) (1) The additional prison term and penalties provided for in subdivisions (a), (c), and (d) shall not be imposed unless the facts set forth in subdivision (a) are charged in the accusatory pleading and admitted or found to be true by the trier of fact.

(2) The additional prison term provided in paragraph (2) of subdivision (a) shall be in addition to any other punishment provided by law, including Section 12022.6, and shall not be limited by any other provision of law.

(c) Any person convicted of two or more felonies, as specified in subdivision (a), shall also be liable for a fine not to exceed five hundred thousand dollars (\$500,000) or double the value of the taking, whichever is greater, if the existence of facts that would make the person subject to the aggravated white collar crime enhancement have been admitted or found to be true by the trier of fact. However, if the pattern of related felony conduct involves the taking of more than one hundred thousand dollars (\$100,000), but not more than five hundred thousand dollars (\$500,000), the fine shall not exceed one hundred thousand dollars (\$100,000) or double the value of the taking, whichever is greater.

(d) Any person convicted of two or more felonies, as specified in subdivision (a), shall be liable for the costs of restitution to victims of the pattern of fraudulent or unlawful conduct, if the existence of facts that would make the person subject to the aggravated white collar crime enhancement have been admitted or found to be true by the trier of fact.

(e) (1) If a person is alleged to have committed two or more felonies, as specified in subdivision (a), and the aggravated white collar crime enhancement is also charged, any asset or property that is in the control of that person, and any asset or property that has been transferred by that person to a third party, subsequent to the commission of any criminal act alleged pursuant to subdivision (a), other than in a bona fide purchase, whether found within or outside the state, may be preserved by the superior court in order to pay restitution and fines imposed pursuant to this section. Upon conviction of two or more felonies, as specified in subdivision (a), this property may be levied upon by the superior court to pay restitution and fines imposed pursuant to this section if the existence of facts that would make the person subject to the aggravated white collar crime enhancement have been admitted or found to be true by the trier of fact.

(2) To prevent dissipation or secreting of assets or property, the prosecuting agency may, at the same time as or subsequent to the filing of a complaint or indictment charging two or more felonies, as specified in subdivision (a), and the enhancement specified in subdivision (a), file a petition with the criminal division of the superior court of the county

in which the accusatory pleading was filed, seeking a temporary restraining order, preliminary injunction, the appointment of a receiver, or any other protective relief necessary to preserve the property or assets. This petition shall commence a proceeding that shall be pendent to the criminal proceeding and maintained solely to effect the criminal remedies provided for in this section. The proceeding shall not be subject to or governed by the provisions of the Civil Discovery Act as set forth in Title 4 (commencing with Section 2016.010) of Part 4 of the Code of Civil Procedure. The petition shall allege that the defendant has been charged with two or more felonies, as specified in subdivision (a), and is subject to the aggravated white collar crime enhancement specified in subdivision (a). The petition shall identify that criminal proceeding and the assets and property to be affected by an order issued pursuant to this section.

(3) A notice regarding the petition shall be provided, by personal service or registered mail, to every person who may have an interest in the property specified in the petition. Additionally, the notice shall be published for at least three successive weeks in a newspaper of general circulation in the county where the property affected by an order issued pursuant to this section is located. The notice shall state that any interested person may file a verified claim with the superior court stating the nature and amount of their claimed interest. The notice shall set forth the time within which a claim of interest in the protected property is required to be filed.

(4) If the property to be preserved is real property, the prosecuting agency shall record, at the time of filing the petition, a lis pendens in each county in which the real property is situated which specifically identifies the property by legal description, the name of the owner of record as shown on the latest equalized assessment roll, and the assessor's parcel number.

(5) If the property to be preserved are assets under the control of a banking or financial institution, the prosecuting agency, at the time of the filing of the petition, may obtain an order from the court directing the banking or financial institution to immediately disclose the account numbers and value of the assets of the accused held by the banking or financial institution. The prosecuting agency shall file a supplemental petition, specifically identifying which banking or financial institution accounts shall be subject to a temporary restraining order, preliminary injunction, or other protective remedy.

(6) Any person claiming an interest in the protected property may, at any time within 30 days from the date of the first publication of the notice of the petition, or within 30 days after receipt of actual notice, file with the superior court of the county in which the action is pending a verified claim stating the nature and amount of his or her interest in the property

or assets. A verified copy of the claim shall be served by the claimant on the Attorney General or district attorney, as appropriate.

(7) The imposition of fines and restitution pursuant to this section shall be determined by the superior court in which the underlying criminal offense is sentenced. Any judge who is assigned to the criminal division of the superior court in the county where the petition is filed may issue a temporary restraining order in conjunction with, or subsequent to, the filing of an allegation pursuant to this section. Any subsequent hearing on the petition shall also be heard by a judge assigned to the criminal division of the superior court in the county in which the petition is filed. At the time of the filing of an information or indictment in the underlying criminal case, any subsequent hearing on the petition shall be heard by the superior court judge assigned to the underlying criminal case.

(f) Concurrent with or subsequent to the filing of the petition, the prosecuting agency may move the superior court for, and the superior court may issue, the following pendente lite orders to preserve the status quo of the property alleged in the petition:

(1) An injunction to restrain any person from transferring, encumbering, hypothecating, or otherwise disposing of that property.

(2) Appointment of a receiver to take possession of, care for, manage, and operate the assets and properties so that the property may be maintained and preserved. The court may order that a receiver appointed pursuant to this section shall be compensated for all reasonable expenditures made or incurred by him or her in connection with the possession, care, management, and operation of any property or assets that are subject to the provisions of this section.

(3) A bond or other undertaking, in lieu of other orders, of a value sufficient to ensure the satisfaction of restitution and fines imposed pursuant to this section.

(g) (1) No preliminary injunction may be granted or receiver appointed by the court without notice that meets the requirements of paragraph (3) of subdivision (e) to all known and reasonably ascertainable interested parties and upon a hearing to determine that an order is necessary to preserve the property pending the outcome of the criminal proceedings. A temporary restraining order may be issued by the court, ex parte, pending that hearing in conjunction with or subsequent to the filing of the petition upon the application of the prosecuting attorney. The temporary restraining order may be based upon the sworn declaration of a peace officer with personal knowledge of the criminal investigation that establishes probable cause to believe that aggravated white collar crime has taken place and that the amount of restitution and fines established by this section exceeds or equals the worth of the assets subject to the temporary restraining order. The

declaration may include the hearsay statements of witnesses to establish the necessary facts. The temporary restraining order may be issued without notice upon a showing of good cause to the court.

(2) The defendant, or a person who has filed a verified claim as provided in paragraph (6) of subdivision (e), shall have the right to have the court conduct an order to show cause hearing within 10 days of the service of the request for hearing upon the prosecuting agency, in order to determine whether the temporary restraining order should remain in effect, whether relief should be granted from any *lis pendens* recorded pursuant to paragraph (4) of subdivision (e), or whether any existing order should be modified in the interests of justice. Upon a showing of good cause, the hearing shall be held within two days of the service of the request for hearing upon the prosecuting agency.

(3) In determining whether to issue a preliminary injunction or temporary restraining order in a proceeding brought by a prosecuting agency in conjunction with or subsequent to the filing of an allegation pursuant to this section, the court has the discretion to consider any matter that it deems reliable and appropriate, including hearsay statements, in order to reach a just and equitable decision. The court shall weigh the relative degree of certainty of the outcome on the merits and the consequences to each of the parties of granting the interim relief. If the prosecution is likely to prevail on the merits and the risk of the dissipation of assets outweighs the potential harm to the defendants and the interested parties, the court shall grant injunctive relief. The court shall give significant weight to the following factors:

(A) The public interest in preserving the property or assets *pendente lite*.

(B) The difficulty of preserving the property or assets *pendente lite* where the underlying alleged crimes involve issues of fraud and moral turpitude.

(C) The fact that the requested relief is being sought by a public prosecutor on behalf of alleged victims of white collar crimes.

(D) The likelihood that substantial public harm has occurred where aggravated white collar crime is alleged to have been committed.

(E) The significant public interest involved in compensating the victims of white collar crime and paying court imposed restitution and fines.

(4) The court, in making its orders, may consider a defendant's request for the release of a portion of the property affected by this section in order to pay reasonable legal fees in connection with the criminal proceeding, any necessary and appropriate living expenses pending trial and sentencing, and for the purpose of posting bail. The court shall weigh the needs of the public to retain the property against the needs of the defendant to a portion of the property. The court shall consider the factors

listed in paragraph (3) prior to making any order releasing property for these purposes.

(5) The court, in making its orders, shall seek to protect the interests of any innocent third persons, including an innocent spouse, who were not involved in the commission of any criminal activity.

(6) Any petition filed pursuant to this section is part of the criminal proceedings for purposes of appointment of counsel and shall be assigned to the criminal division of the superior court of the county in which the accusatory pleading was filed.

(7) Based upon a noticed motion brought by the receiver appointed pursuant to paragraph (2) of subdivision (f), the court may order an interlocutory sale of property named in the petition when the property is liable to perish, to waste, or to be significantly reduced in value, or when the expenses of maintaining the property are disproportionate to the value thereof. The proceeds of the interlocutory sale shall be deposited with the court or as directed by the court pending determination of the proceeding pursuant to this section.

(8) The court may make any orders that are necessary to preserve the continuing viability of any lawful business enterprise that is affected by the issuance of a temporary restraining order or preliminary injunction issued pursuant to this action.

(9) In making its orders, the court shall seek to prevent any asset subject to a temporary restraining order or preliminary injunction from perishing, spoiling, going to waste, or otherwise being significantly reduced in value. Where the potential for diminution in value exists, the court shall appoint a receiver to dispose of or otherwise protect the value of the property or asset.

(10) A preservation order shall not be issued against any assets of a business that are not likely to be dissipated and that may be subject to levy or attachment to meet the purposes of this section.

(h) If the allegation that the defendant is subject to the aggravated white collar crime enhancement is dismissed or found by the trier of fact to be untrue, any preliminary injunction or temporary restraining order issued pursuant to this section shall be dissolved. If a jury is the trier of fact, and the jury is unable to reach a unanimous verdict, the court shall have the discretion to continue or dissolve all or a portion of the preliminary injunction or temporary restraining order based upon the interests of justice. However, if the prosecuting agency elects not to retry the case, any preliminary injunction or temporary restraining order issued pursuant to this section shall be dissolved.

(i) (1) (A) If the defendant is convicted of two or more felonies, as specified in subdivision (a), and the existence of facts that would make the person subject to the aggravated white collar crime enhancement have been admitted or found to be true by the trier of fact, the trial judge

shall continue the preliminary injunction or temporary restraining order until the date of the criminal sentencing and shall make a finding at that time as to what portion, if any, of the property or assets subject to the preliminary injunction or temporary restraining order shall be levied upon to pay fines and restitution to victims of the crime. The order imposing fines and restitution may exceed the total worth of the property or assets subjected to the preliminary injunction or temporary restraining order. The court may order the immediate transfer of the property or assets to satisfy any judgment and sentence made pursuant to this section. Additionally, upon motion of the prosecution, the court may enter an order as part of the judgment and sentence making the order imposing fines and restitution pursuant to this section enforceable pursuant to Title 9 (commencing with Section 680.010) of Part 2 of the Code of Civil Procedure.

(B) Additionally, the court shall order the defendant to make full restitution to the victim or to make restitution to the victim based on his or her ability to pay, as defined in subdivision (b) of Section 1203.1b. The payment of the restitution ordered by the court pursuant to this section shall be made a condition of any probation granted by the court if the existence of facts that would make the defendant subject to the aggravated white collar crime enhancement have been admitted or found to be true by the trier of fact. Notwithstanding any other provision of law, the court may order that the period of probation continue for up to 10 years or until full restitution is made to the victim, whichever is earlier.

(C) The sentencing court shall retain jurisdiction to enforce the order to pay additional fines and restitution and, in appropriate cases, may initiate probation violation proceedings or contempt of court proceedings against a defendant who is found to have willfully failed to comply with any lawful order of the court.

(D) If the execution of judgment is stayed pending an appeal of an order of the superior court pursuant to this section, the preliminary injunction or temporary restraining order shall be maintained in full force and effect during the pendency of the appellate period.

(2) The order imposing fines and restitution shall not affect the interest in real property of any third party that was acquired prior to the recording of the lis pendens, unless the property was obtained from the defendant other than as a bona fide purchaser for value. If any assets or property affected by this section are subject to a valid lien, mortgage, security interest, or interest under a conditional sales contract and the amount due to the holder of the lien, mortgage, interest, or contract is less than the appraised value of the property, that person may pay to the state or the local government that initiated the proceeding the amount of the difference between the appraised value of the property and the amount of the lien, mortgage, security interest, or interest under a conditional

sales contract. Upon that payment, the state or local entity shall relinquish all claims to the property. If the holder of the interest elects not to make that payment to the state or local governmental entity, the interest in the property shall be deemed transferred to the state or local governmental entity and any indicia of ownership of the property shall be confirmed in the state or local governmental entity. The appraised value shall be determined as of the date judgment is entered either by agreement between the holder of the lien, mortgage, security interest, or interest under a conditional sales contract and the governmental entity involved, or if they cannot agree, then by a court-appointed appraiser for the county in which the action is brought. A person holding a valid lien, mortgage, security interest, or interest under a conditional sales contract shall be paid the appraised value of his or her interest.

(3) In making its final order, the court shall seek to protect the legitimately acquired interests of any innocent third persons, including an innocent spouse, who were not involved in the commission of any criminal activity.

(j) In all cases where property is to be levied upon pursuant to this section, a receiver appointed by the court shall be empowered to liquidate all property or assets which shall be distributed in the following order of priority:

(1) To the receiver, or court-appointed appraiser, for all reasonable expenditures made or incurred by him or her in connection with the sale of the property or liquidation of assets, including all reasonable expenditures for any necessary repairs, storage, or transportation of any property levied upon under this section.

(2) To any holder of a valid lien, mortgage, or security interest up to the amount of his or her interest in the property or proceeds.

(3) To any victim as restitution for any fraudulent or unlawful acts alleged in the accusatory pleading that were proven by the prosecuting agency as part of the pattern of fraudulent or unlawful acts.

(4) For payment of any fine imposed pursuant to this section. The proceeds obtained in payment of a fine shall be paid to the treasurer of the county in which the judgment was entered, or if the action was undertaken by the Attorney General, to the Treasurer. If the payment of any fine imposed pursuant to this section involved losses resulting from violation of Section 550 of this code or Section 1871.4 of the Insurance Code, one-half of the fine collected shall be paid to the treasurer of the county in which the judgment was entered, and one-half of the fine collected shall be paid to the Department of Insurance for deposit in the appropriate account in the Insurance Fund. The proceeds from the fine first shall be used by a county to reimburse local prosecutors and enforcement agencies for the reasonable costs of investigation and prosecution of cases brought pursuant to this section.

(5) To the Restitution Fund, or in cases involving convictions relating to insurance fraud, to the Insurance Fund as restitution for crimes not specifically pleaded and proven in the accusatory pleading.

(k) If, after distribution pursuant to paragraphs (1) and (2) of subdivision (j), the value of the property to be levied upon pursuant to this section is insufficient to pay for restitution and fines, the court shall order an equitable sharing of the proceeds of the liquidation of the property, and any other recoveries, which shall specify the percentage of recoveries to be devoted to each purpose. At least 70 percent of the proceeds remaining after distribution pursuant to paragraphs (1) and (2) of subdivision (j) shall be devoted to restitution.

(l) Unless otherwise expressly provided, the remedies or penalties provided by this section are cumulative to each other and to the remedies or penalties available under all other laws of this state, except that two separate actions against the same defendant and pertaining to the same fraudulent or unlawful acts may not be brought by a district attorney or the Attorney General pursuant to this section and Chapter 5 (commencing with Section 17200) of Part 2 of Division 7 of the Business and Professions Code. If a fine is imposed under this section, it shall be in lieu of all other fines that may be imposed pursuant to any other provision of law for the crimes for which the defendant has been convicted in the action.

SEC. 50. Section 1054.6 of the Penal Code is amended to read:

1054.6. Neither the defendant nor the prosecuting attorney is required to disclose any materials or information which are work product as defined in subdivision (a) of Section 2018.030 of the Code of Civil Procedure, or which are privileged pursuant to an express statutory provision, or are privileged as provided by the Constitution of the United States.

SEC. 51. Section 1524 of the Penal Code is amended to read:

1524. (a) A search warrant may be issued upon any of the following grounds:

- (1) When the property was stolen or embezzled.
- (2) When the property or things were used as the means of committing a felony.
- (3) When the property or things are in the possession of any person with the intent to use them as a means of committing a public offense, or in the possession of another to whom he or she may have delivered them for the purpose of concealing them or preventing their being discovered.
- (4) When the property or things to be seized consist of any item or constitute any evidence that tends to show a felony has been committed, or tends to show that a particular person has committed a felony.

(5) When the property or things to be seized consist of evidence that tends to show that sexual exploitation of a child, in violation of Section 311.3, or possession of matter depicting sexual conduct of a person under the age of 18 years, in violation of Section 311.11, has occurred or is occurring.

(6) When there is a warrant to arrest a person.

(7) When a provider of electronic communication service or remote computing service has records or evidence, as specified in Section 1524.3, showing that property was stolen or embezzled constituting a misdemeanor, or that property or things are in the possession of any person with the intent to use them as a means of committing a misdemeanor public offense, or in the possession of another to whom he or she may have delivered them for the purpose of concealing them or preventing their discovery.

(b) The property or things or person or persons described in subdivision (a) may be taken on the warrant from any place, or from any person in whose possession the property or things may be.

(c) Notwithstanding subdivision (a) or (b), no search warrant shall issue for any documentary evidence in the possession or under the control of any person, who is a lawyer as defined in Section 950 of the Evidence Code, a physician as defined in Section 990 of the Evidence Code, a psychotherapist as defined in Section 1010 of the Evidence Code, or a member of the clergy as defined in Section 1030 of the Evidence Code, and who is not reasonably suspected of engaging or having engaged in criminal activity related to the documentary evidence for which a warrant is requested unless the following procedure has been complied with:

(1) At the time of the issuance of the warrant the court shall appoint a special master in accordance with subdivision (d) to accompany the person who will serve the warrant. Upon service of the warrant, the special master shall inform the party served of the specific items being sought and that the party shall have the opportunity to provide the items requested. If the party, in the judgment of the special master, fails to provide the items requested, the special master shall conduct a search for the items in the areas indicated in the search warrant.

(2) If the party who has been served states that an item or items should not be disclosed, they shall be sealed by the special master and taken to court for a hearing.

At the hearing, the party searched shall be entitled to raise any issues that may be raised pursuant to Section 1538.5 as well as a claim that the item or items are privileged, as provided by law. The hearing shall be held in the superior court. The court shall provide sufficient time for the parties to obtain counsel and make any motions or present any evidence. The hearing shall be held within three days of the service of the warrant

unless the court makes a finding that the expedited hearing is impracticable. In that case the matter shall be heard at the earliest possible time.

If an item or items are taken to court for a hearing, any limitations of time prescribed in Chapter 2 (commencing with Section 797) of Title 3 of Part 2 shall be tolled from the time of the seizure until the final conclusion of the hearing, including any associated writ or appellate proceedings.

(3) The warrant shall, whenever practicable, be served during normal business hours. In addition, the warrant shall be served upon a party who appears to have possession or control of the items sought. If, after reasonable efforts, the party serving the warrant is unable to locate the person, the special master shall seal and return to the court, for determination by the court, any item that appears to be privileged as provided by law.

(d) As used in this section, a “special master” is an attorney who is a member in good standing of the California State Bar and who has been selected from a list of qualified attorneys that is maintained by the State Bar particularly for the purposes of conducting the searches described in this section. These attorneys shall serve without compensation. A special master shall be considered a public employee, and the governmental entity that caused the search warrant to be issued shall be considered the employer of the special master and the applicable public entity, for purposes of Division 3.6 (commencing with Section 810) of Title 1 of the Government Code, relating to claims and actions against public entities and public employees. In selecting the special master, the court shall make every reasonable effort to ensure that the person selected has no relationship with any of the parties involved in the pending matter. Any information obtained by the special master shall be confidential and shall not be divulged except in direct response to inquiry by the court.

In any case in which the magistrate determines that, after reasonable efforts have been made to obtain a special master, a special master is not available and would not be available within a reasonable period of time, the magistrate may direct the party seeking the order to conduct the search in the manner described in this section in lieu of the special master.

(e) Any search conducted pursuant to this section by a special master may be conducted in a manner that permits the party serving the warrant or his or her designee to accompany the special master as he or she conducts his or her search. However, that party or his or her designee shall not participate in the search nor shall he or she examine any of the items being searched by the special master except upon agreement of the party upon whom the warrant has been served.

(f) As used in this section, “documentary evidence” includes, but is not limited to, writings, documents, blueprints, drawings, photographs, computer printouts, microfilms, X-rays, files, diagrams, ledgers, books, tapes, audio and video recordings, films or papers of any type or description.

(g) No warrant shall issue for any item or items described in Section 1070 of the Evidence Code.

(h) Notwithstanding any other law, no claim of attorney work product as described in Chapter 4 (commencing with Section 2018.010) of Title 4 of Part 4 of the Code of Civil Procedure shall be sustained where there is probable cause to believe that the lawyer is engaging or has engaged in criminal activity related to the documentary evidence for which a warrant is requested unless it is established at the hearing with respect to the documentary evidence seized under the warrant that the services of the lawyer were not sought or obtained to enable or aid anyone to commit or plan to commit a crime or a fraud.

(i) Nothing in this section is intended to limit an attorney’s ability to request an in camera hearing pursuant to the holding of the Supreme Court of California in *People v. Superior Court (Laff)* (2001) 25 Cal.4th 703.

(j) In addition to any other circumstance permitting a magistrate to issue a warrant for a person or property in another county, when the property or things to be seized consist of any item or constitute any evidence that tends to show a violation of Section 530.5, the magistrate may issue a warrant to search a person or property located in another county if the person whose identifying information was taken or used resides in the same county as the issuing court.

SEC. 52. Section 451 of the Probate Code is amended to read:

451. (a) For the purpose of appraisal of property in the estate, the probate referee may require, and may issue a subpoena to compel, the appearance before the referee of the personal representative, guardian, conservator, or other fiduciary, an interested person, or any other person the referee has reason to believe has knowledge of the property.

(b) A subpoena issued under subdivision (a) is subject to the provisions of Chapter 6 (commencing with Section 2020.010) of Title 4 of Part 4 of the Code of Civil Procedure governing deposition subpoenas.

SEC. 53. Section 452 of the Probate Code is amended to read:

452. (a) The probate referee may:

(1) Examine and take the testimony under oath of a person appearing before the referee.

(2) Require, and issue a subpoena to compel, the person to produce any document in the person’s possession or control, concerning the value of any property in the estate.

(b) A subpoena issued under subdivision (a) is subject to the provisions of Chapter 6 (commencing with Section 2020.010) of Title 4 of Part 4 of the Code of Civil Procedure governing deposition subpoenas.

SEC. 54. Section 20104.4 of the Public Contract Code is amended to read:

20104.4. The following procedures are established for all civil actions filed to resolve claims subject to this article:

(a) Within 60 days, but no earlier than 30 days, following the filing or responsive pleadings, the court shall submit the matter to nonbinding mediation unless waived by mutual stipulation of both parties. The mediation process shall provide for the selection within 15 days by both parties of a disinterested third person as mediator, shall be commenced within 30 days of the submittal, and shall be concluded within 15 days from the commencement of the mediation unless a time requirement is extended upon a good cause showing to the court or by stipulation of both parties. If the parties fail to select a mediator within the 15-day period, any party may petition the court to appoint the mediator.

(b) (1) If the matter remains in dispute, the case shall be submitted to judicial arbitration pursuant to Chapter 2.5 (commencing with Section 1141.10) of Title 3 of Part 3 of the Code of Civil Procedure, notwithstanding Section 1141.11 of that code. The Civil Discovery Act (Title 4 (commencing with Section 2016.010) of Part 4 of the Code of Civil Procedure) shall apply to any proceeding brought under this subdivision consistent with the rules pertaining to judicial arbitration.

(2) Notwithstanding any other provision of law, upon stipulation of the parties, arbitrators appointed for purposes of this article shall be experienced in construction law, and, upon stipulation of the parties, mediators and arbitrators shall be paid necessary and reasonable hourly rates of pay not to exceed their customary rate, and such fees and expenses shall be paid equally by the parties, except in the case of arbitration where the arbitrator, for good cause, determines a different division. In no event shall these fees or expenses be paid by state or county funds.

(3) In addition to Chapter 2.5 (commencing with Section 1141.10) of Title 3 of Part 3 of the Code of Civil Procedure, any party who after receiving an arbitration award requests a trial de novo but does not obtain a more favorable judgment shall, in addition to payment of costs and fees under that chapter, pay the attorney's fees of the other party arising out of the trial de novo.

(c) The court may, upon request by any party, order any witnesses to participate in the mediation or arbitration process.

SEC. 55. Section 3357 of the Public Resources Code is amended to read:

3357. In any proceeding before the director, and in any proceeding instituted by the supervisor for the purpose of enforcing or carrying out the provisions of this division, or for the purpose of holding an investigation to ascertain the condition of any well or wells complained of, or which in the opinion of the supervisor may reasonably be presumed to be improperly located, drilled, operated, maintained, or conducted, the supervisor and the director shall have the power to administer oaths and may apply to a judge of the superior court of the county in which the proceeding or investigation is pending for a subpoena for witnesses to attend the proceeding or investigation. Upon the application of the supervisor or the director, the judge of the superior court shall issue a subpoena directing the witness to attend the proceeding or investigation, and such person shall be required to produce, when directed, all records, surveys, documents, books, or accounts in the witness' custody or under the witness' control; except that no person shall be required to attend upon such proceeding unless the person resides within the same county or within 100 miles of the place of attendance. The supervisor or the director may in such case cause the depositions of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil actions in superior courts of this state under Title 4 (commencing with Section 2016.010) of Part 4 of the Code of Civil Procedure, and may, upon application to a judge of the superior court of the county within which the proceeding or investigation is pending, obtain a subpoena compelling the attendance of witnesses and the production of records, surveys, documents, books, or accounts at such places as the judge may designate within the limits prescribed in this section.

SEC. 56. Section 3769 of the Public Resources Code is amended to read:

3769. In any proceeding instituted by the supervisor for the purpose of enforcing or carrying out the provisions of this chapter, or for the purpose of holding an investigation to ascertain the condition of any well or wells complained of, or which in the opinion of the supervisor may reasonably be presumed to be improperly located, drilled, operated, maintained, or conducted, the supervisor shall have the power to administer oaths and may apply to a judge of the superior court of the county in which the proceeding or investigation is pending, for a subpoena for witnesses to attend the proceeding or investigation. Upon the application of the supervisor, the judge of the superior court shall issue a subpoena directing the witness to attend the proceeding or investigation, and such person shall be required to produce, when directed, all records, surveys, documents, books, or accounts in the witness' custody or under the witness' control; except that no person shall be required to attend upon such proceeding, unless the person

resides within the same county or within 100 miles of the place of attendance.

The supervisor may in such case cause the depositions of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil actions in superior courts of this state under Title 4 (commencing with Section 2016.010) of Part 4 of the Code of Civil Procedure, and may, upon application to a judge of the superior court of the county within which the proceeding or investigation is pending, obtain a subpoena compelling the attendance of witnesses and the production of records, surveys, documents, books, or accounts at such places as the judge may designate within the limits prescribed in this section.

SEC. 57. Section 1794 of the Public Utilities Code is amended to read:

1794. The commission or any commissioner or any party may, in any investigation or hearing before the commission, cause the deposition of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil actions in the superior courts of this state under Title 4 (commencing with Section 2016.010) of Part 4 of the Code of Civil Procedure and to that end may compel the attendance of witnesses and the production of books, waybills, documents, papers, and accounts.

SEC. 58. Section 25110 of the Revenue and Taxation Code is amended to read:

25110. (a) Notwithstanding Section 25101, a qualified taxpayer, as defined in paragraph (2) of subdivision (b), that is subject to the tax imposed under this part, may elect to determine its income derived from or attributable to sources within this state pursuant to a water's-edge election in accordance with the provisions of this part, as modified by this article. A taxpayer that makes a water's-edge election shall take into account the income and apportionment factors of the following affiliated entities only:

(1) Domestic international sales corporations, as described in Sections 991 to 994, inclusive, of the Internal Revenue Code and foreign sales corporations as described in Sections 921 to 927, inclusive, of the Internal Revenue Code.

(2) Any corporation (other than a bank), regardless of the place where it is incorporated if the average of its property, payroll, and sales factors within the United States is 20 percent or more.

(3) Corporations that are incorporated in the United States, excluding corporations making an election pursuant to Sections 931 to 936, inclusive, of the Internal Revenue Code, of which more than 50 percent of their voting stock is owned or controlled directly or indirectly by the same interests.

(4) A corporation that is not described in paragraphs (1) to (3), inclusive, or paragraph (5), but only to the extent of its income derived from or attributable to sources within the United States and its factors assignable to a location within the United States in accordance with paragraph (3) of subdivision (b). Income of that corporation derived from or attributable to sources within the United States as determined by federal income tax laws shall be limited to and determined from the books of account maintained by the corporation with respect to its activities conducted within the United States.

(5) Export trade corporations, as described in Sections 970 to 972, inclusive, of the Internal Revenue Code.

(6) Any affiliated corporation which is a “controlled foreign corporation,” as defined in Section 957 of the Internal Revenue Code, if all or part of the income of that affiliate is defined in Section 952 of Subpart F of the Internal Revenue Code (“Subpart F income”). The income and apportionment factors of any affiliate to be included under this paragraph shall be determined by multiplying the income and apportionment factors of that affiliate without application of this paragraph by a fraction (not to exceed one), the numerator of which is the “Subpart F income” of that corporation for that taxable year and the denominator of which is the “earnings and profits” of that corporation for that taxable year, as defined in Section 964 of the Internal Revenue Code.

(7) (A) The income and factors of the above-enumerated corporations shall be taken into account only if the income and factors would have been taken into account under Section 25101 if this section had not been enacted.

(B) The income and factors of a corporation that is not described in paragraphs (1) to (3), inclusive, and paragraph (5) and that is an electing taxpayer under this subdivision shall be taken into account in determining its income only to the extent set forth in paragraph (4).

(b) For purposes of this article and Section 24411:

(1) An “affiliated corporation” means a corporation that is a member of a commonly controlled group as defined in Section 25105.

(2) A “qualified taxpayer” means a corporation which does both of the following:

(A) Files with the state tax return on which the water’s-edge election is made a consent to the taking of depositions at the time and place most reasonably convenient to all parties from key domestic corporate individuals and to the acceptance of subpoenas duces tecum requiring reasonable production of documents to the Franchise Tax Board as provided in Section 19504 or by the State Board of Equalization as provided in Title 18, California Code of Regulations, Section 5005, or by the courts of this state as provided in Chapter 2 (commencing with

Section 1985) of Title 3 of Part 4 of, and Chapter 9 (commencing with Section 2025.010) of Title 4 of Part 4 of, the Code of Civil Procedure. The consent relates to issues of jurisdiction and service and does not waive any defenses a taxpayer may otherwise have. The consent shall remain in effect so long as the water's-edge election is in effect and shall be limited to providing that information necessary to review or to adjust income or deductions in a manner authorized under Sections 482, 861, Subpart F of Part III of Subchapter N, or similar provisions of the Internal Revenue Code, together with the regulations adopted pursuant to those provisions, and for the conduct of an investigation with respect to any unitary business in which the taxpayer may be involved.

(B) Agrees that for purposes of this article, dividends received by any corporation whose income and apportionment factors are taken into account pursuant to subdivision (a) from either of the following are functionally related dividends and shall be presumed to be business income:

(i) A corporation of which more than 50 percent of the voting stock is owned, directly or indirectly, by members of the unitary group and which is engaged in the same general line of business.

(ii) Any corporation that is either a significant source of supply for the unitary business or a significant purchaser of the output of the unitary business, or that sells a significant part of its output or obtains a significant part of its raw materials or input from the unitary business. "Significant," as used in this subparagraph, means an amount of 15 percent or more of either input or output.

All other dividends shall be classified as business or nonbusiness income without regard to this subparagraph.

(3) The definitions and locations of property, payroll, and sales shall be determined under the laws and regulations that set forth the apportionment formulas used by the individual states to assign net income subject to taxes on or measured by net income in that state. If a state does not impose a tax on or measured by net income or does not have laws or regulations with respect to the assignment of property, payroll, and sales, the laws and regulations provided in Article 2 (commencing with Section 25120) shall apply.

Sales shall be considered to be made to a state only if the corporation making the sale may otherwise be subject to a tax on or measured by net income under the Constitution or laws of the United States, and shall not include sales made to a corporation whose income and apportionment factors are taken into account pursuant to subdivision (a) in determining the amount of income of the taxpayer derived from or attributable to sources within this state.

(4) "The United States" means the 50 states of the United States and the District of Columbia.

(c) All references in this part to income determined pursuant to Section 25101 shall also mean income determined pursuant to this section.

SEC. 59. Section 3050.1 of the Vehicle Code is amended to read:

3050.1. (a) In a proceeding, hearing, or in the discharge of duties imposed under this chapter, the board, its executive director, or an administrative law judge designated by the board may administer oaths, take depositions, certify to official acts, and issue subpoenas to compel attendance of witnesses and the production of books, records, papers, and other documents in any part of the state.

(b) For purposes of discovery, the board or its executive director may, if deemed appropriate and proper under the circumstances, authorize the parties to engage in the civil action discovery procedures in Title 4 (commencing with Section 2016.010) of Part 4 of the Code of Civil Procedure, excepting the provisions of Chapter 13 (commencing with Section 2030.010) of that title. Discovery shall be completed no later than 15 days prior to the commencement of the proceeding or hearing before the board. This subdivision shall apply only to those proceedings or hearings involving a petition or protest filed pursuant to subdivision (c) or (d) of Section 3050. The board, its executive director, or an administrative law judge designated by the board may issue subpoenas to compel attendance at depositions of persons having knowledge of the acts, omissions, or events that are the basis for the proceedings, as well as the production of books, records, papers, and other documents.

SEC. 60. Section 1100 of the Water Code is amended to read:

1100. The board or any party to a proceeding before it may, in any investigation or hearing, cause the deposition of witnesses residing within or without the state to be taken in the manner prescribed by law for depositions in civil actions in the superior courts of this state under Title 4 (commencing with Section 2016.010) of Part 4 of the Code of Civil Procedure.

SEC. 61. Nothing in this act is intended to substantively change the law of civil discovery.

SEC. 62. Section 23.5 of this bill incorporates the substance of changes to the Civil Discovery Act proposed by this bill and AB 3078. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2005, (2) each bill affects provisions of the Civil Discovery Act, and (3) this bill is enacted after AB 3078, in which case Sections 2024 and 2034 of the Code of Civil Procedure as amended by AB 3078 shall remain operative only until the operative date of this bill, at which time Section 23.5 of this bill shall become operative, and Section 2016.060 of the Code of Civil Procedure as added by Section 23 of this bill shall not become operative.

SEC. 63. Except as specified in Sections 23.5 and 62 of this act, any section of any act enacted by the Legislature during the 2004 calendar year that takes effect on or before January 1, 2005, and that amends, amends and renumbers, adds, repeals and adds, or repeals a section that is amended, amended and renumbered, added, repealed and added, or repealed by Section 1 to Section 21, inclusive, or Section 24 to Section 60, inclusive, of this act shall prevail over this act, whether that act is enacted prior to, or subsequent to, the enactment of this act.

SEC. 64. This act becomes operative on July 1, 2005.

CHAPTER 183

An act to amend Sections 511.3, 853, 2241.5, 2260, 3651, 4052, 4311, 4409, 4980.90, 7026.1, 7028, 12107.1, 13570, 17529.1, 17538.45, 17550.30, 17593, 18824, 18897.73, 22575, and 25503.4 of the Business and Professions Code, to amend Sections 51.10, 56.26, 800.100, 1102.16, 1103, 1542, 1785.30, 1786.24, 1789.21, 1798.83, 1798.85, 1799.1b, 1812.701, 1865, 2945.3, 2982, 2985.8, and 2988.9 of, and to amend and renumber Sections 1747.8 and 1747.9 of, the Civil Code, to amend Sections 715.010, 995.640, 1021.8, 1563, 1822.60, and 2023 of the Code of Civil Procedure, to amend Sections 2207, 13401.5, and 14010 of, and to amend and renumber Section 17655 of, the Corporations Code, to amend Sections 8266.1, 8813, 8825, 17077.45, 17334, 17360, 22852, 22854, 27403, 32265, 42238.41, 44279.2, 44328, 44735, 44830.3, 47634, 48200.7, 49414.5, 49452.6, 52015, 52054, 52055.615, 52055.625, 52055.655, 52128, 60061.8, 60640, 64201, 66271.8, 67359.13, 88033, 89539.2, 94779, 94901, 94944, 94990, and 99235 of the Education Code, to amend Sections 11105, 14310, and 18541 of the Elections Code, to amend Sections 917 and 956.5 of the Evidence Code, to amend Sections 4962 and 17600 of the Family Code, to amend Sections 216.3, 258, 645, 690, 777.5, 867, 1753, 1807, 1908, 3804, 14401, and 50122 of the Financial Code, to amend Sections 206, 1570, 1572, 1613, 7149.2, 7361, 7362, and 12011 of the Fish and Game Code, to amend Sections 6047.4, 6047.82, 27680, 27681, 27686, 27690, 30801, 52489, 65520, 66572, 66663, 74028, 78302, and 78690 of the Food and Agricultural Code, to amend Sections 912.8, 1091.4, 6254, 6254.17, 7072, 8220, 8592.4, 8869.84, 8880.325, 10205.1, 12012.30, 12080.3, 12598, 13995.20, 13995.40, 13995.42, 13995.58, 13995.65, 13995.74, 13997.1, 14055.2, 18215, 19063.1, 19582.1, 19826, 20035.2, 20035.3, 20035.4, 20035.10, 20235, 22013.97, 22825.12, 25358, 29550, 30061, 31520.5, 31755, 31762, 31776.3, 50061, 53088.2, 53895.5, 54222, 63049.4, 65919, 68085.5, 68086, 69927,

71806, 71828, 77202, and 95000 of, and to amend and renumber Sections 6215 and 20035.5 of, the Government Code, to amend Sections 138.6, 444.20, 1255, 1367.04, 1375.7, 1569.30, 1569.70, 1596.816, 1794.04, 11758, 13108.5, 17037.5, 17921.9, 17991, 25117.4.1, 25121.3, 25160.6, 25184.1, 25201.1, 25210.6, 25360.6, 25501, 32111, 33320.8, 33492.40, 39011.5, 39614, 39661, 40500.5, 40724.6, 41514.1, 41855.6, 50517.9, 51615, 53533, 101625, 104558, 106010, 115005, 121010, 127670, 127671, 127760, and 128401 of, to amend the heading of Chapter 8 (commencing with Section 127670) of Part 2 of Division 107 of, and to amend and renumber Sections 35987, 35988, 35989, 35990, and 35991 of, the Health and Safety Code, to amend Sections 881, 1063.53, 1067.08, 1104.9, 1280.7, 1776, 1861.025, 10113.2, 10133.56, 10133.8, 10178.4, 10764, 12144, 12671, 12693.55, 12975.7, 12975.8 of, and to amend and renumber Section 10089.45 of, the Insurance Code, to amend Sections 98.2, 141, 143.2, 2140.5, 2160.1, 2190, 2190.2, 2200, 2210, 3099, 3600.1, and 7304 of, and to amend and renumber Section 4610 of, the Labor Code, to amend Sections 186.8, 330b, 330.7, 597b, 597c, 1372, 1463.010, 6245, 11171, 11502, 12021, and 13864 of the Penal Code, to amend Sections 858, 6242, 19403, 20114.5, and 21320 of the Probate Code, to amend Sections 6106.5 and 10295.3 of the Public Contract Code, to amend Sections 2755, 2802, 3305, 3324, 5079.50, 14509.3, 14552.5, 14581, 30610.3, 36725, 40000, 41732, 42330, 42463, 42475.2, 45000, 45010, 50000, and 71210 of, and to amend the headings of Article 1 (commencing with Section 32630), Article 2 (commencing with Section 32633), Article 3 (commencing with Section 32639), Article 4 (commencing with Section 32657), and Article 5 (commencing with Section 32661) of Division 22.9 of, the Public Resources Code, to amend Sections 280.5, 353.2, 372, 374, 377.2, 379.6, 396, 399.12, 1701.3, and 21670.1 of the Public Utilities Code, to amend Sections 97.313, 155.20, 3691.6, 6077, 6361.1, 9405, 17132.6, 18407, 19164, 19179, 19777, 23036, 23736.1, 46622, and 55337 of the Revenue and Taxation Code, to amend Sections 104.7, 3114.5, 5101, 8833, 10100.2, and 31071 of the Streets and Highways Code, to amend Sections 2610, 3305, and 10200 of the Unemployment Insurance Code, to amend Sections 2813.5, 3072, 9250.13, 9400.1, 9400.3, 9951, 11515.2, 12509, 22100, 25803, 31032.1, 34620, and 35401.7 of the Vehicle Code, to amend Sections 1552, 13269, 13368, 13387, 13610, 13611, 13611.5, 36153, 72303, 78688, 79532, and 79561.5 of, and to amend and renumber Section 12749.95 of the Water Code, to amend Sections 779, 1000.7, 1703, 5657, 7200.06, 10063, 11025, 11052.5, 11373, 11468.6, 14016.5, 14043.75, 14087.6, 14105.981, 14123.25, 14132.22, 14133.3, 14148.91, 14408, 15657, 15657.03, 16121.05, 16501.6, and 18358 of the Welfare and Institutions Code, and to amend Section 1 of Chapter 68 of, and Section 13 of

Chapter 673 of, the Statutes of 2003, relating to the maintenance of the codes.

[Approved by Governor July 19, 2004. Filed with
Secretary of State July 20, 2004.]

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

SECTION 1. Section 511.3 of the Business and Professions Code is amended to read:

511.3. (a) When a contracting agent sells, leases, or transfers a health provider's contract to a payor, the rights and obligations of the provider shall be governed by the underlying contract between the health care provider and the contracting agent.

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

(1) "Contracting agent" has the meaning set forth in paragraph (2) of subdivision (d) of Section 511.1.

(2) "Payor" has the meaning set forth in paragraph (3) of subdivision (d) of Section 511.1.

SEC. 2. Section 853 of the Business and Professions Code is amended to read:

853. (a) The Licensed Physicians and Dentists from Mexico Pilot Program is hereby created. This program shall allow up to 30 licensed physicians specializing in family practice, internal medicine, pediatrics, and obstetrics and gynecology, and up to 30 licensed dentists from Mexico to practice medicine or dentistry in California for a period not to exceed three years. The program shall also maintain an alternate list of program participants.

(b) The Medical Board of California shall issue three-year nonrenewable licenses to practice medicine to licensed Mexican physicians and the Dental Board of California shall issue three-year nonrenewable permits to practice dentistry to licensed Mexican dentists.

(c) Physicians from Mexico eligible to participate in this program shall comply with the following:

(1) Be licensed, certified or recertified, and in good standing in their medical specialty in Mexico. This certification or recertification shall be performed, as appropriate, by the Consejo Mexicano de Ginecología y Obstetricia, A.C., the Consejo Mexicano de Certificación en Medicina Familiar, A.C., the Consejo Mexicano de Medicina Interna, A.C., or the Consejo Mexicano de Certificación en Pediatría, A.C.

(2) Prior to leaving Mexico, each physician shall have completed the following requirements:

(A) Passed the board review course with a score equivalent to that registered by United States applicants when passing a board review

course for the United States certification examination in each of his or her specialty areas and passed an interview examination developed by the National Autonomous University of Mexico (UNAM) for each specialty area. Family practitioners who shall include obstetrics and gynecology in their practice shall also be required to have appropriately documented, as specified by United States standards, 50 live births. Mexican obstetricians and gynecologists shall be fellows in good standing of the American College of Obstetricians and Gynecologists.

(B) (i) Satisfactorily completed a six-month orientation program that addressed medical protocol, community clinic history and operations, medical administration, hospital operations and protocol, medical ethics, the California medical delivery system, health maintenance organizations and managed care practices, and pharmacology differences. This orientation program shall be approved by the Medical Board of California to ensure that it contains the requisite subject matter and meets appropriate California law and medical standards where applicable.

(ii) Additionally, Mexican physicians participating in the program shall be required to be enrolled in adult English as a Second Language (ESL) classes that focus on both verbal and written subject matter. Each physician participating in the program shall have transcripts sent to the Medical Board of California from the appropriate Mexican university showing enrollment and satisfactory completion of these classes.

(C) Representatives from UNAM in Mexico and a medical school in good standing or a facility conducting an approved medical residency training program in California shall confer to develop a mutually agreed-upon distant learning program for the six-month orientation program required pursuant to subparagraph (B).

(3) Upon satisfactory completion of the requirements in paragraphs (1) and (2), and after having received their three-year nonrenewable medical license, the Mexican physicians shall be required to obtain continuing education pursuant to Section 2190. Each physician shall obtain an average of 25 continuing education units per year for a total of 75 units for a full three years of program participation.

(4) Upon satisfactory completion of the requirements in paragraphs (1) and (2), the applicant shall receive a three-year nonrenewable license to work in nonprofit community health centers and shall also be required to participate in a six-month externship at his or her place of employment. This externship shall be undertaken after the participant has received a license and is able to practice medicine. The externship shall ensure that the participant is complying with the established standards for quality assurance of nonprofit community health centers and medical practices. The externship shall be affiliated with a medical school in good standing in California. Complaints against program

participants shall follow the same procedures contained in the Medical Practice Act (Chapter 5 (commencing with Section 2000)).

(5) After arriving in California, Mexican physicians participating in the program shall be required to be enrolled in adult ESL classes at institutions approved by the Bureau of Private Post Secondary and Vocational Education or accredited by the Western Association of Schools and Colleges. These classes shall focus on verbal and written subject matter to assist a physician in obtaining a level of proficiency in English that is commensurate with the level of English spoken at community clinics where he or she will practice. The community clinic employing a physician shall submit documentation confirming approval of an ESL program to the Medical Board of California for verification. Transcripts of satisfactory completion of the ESL classes shall be submitted to the board as proof of compliance with this provision.

(6) (A) Nonprofit community health centers employing Mexican physicians in the program shall be required to have medical quality assurance protocols and either be accredited by the Joint Commission on Accreditation of Health Care Organizations or have protocols similar to those required by the Joint Commission on Accreditation of Health Care Organizations. These protocols shall be submitted to the Medical Board of California prior to the hiring of Mexican physicians.

(B) In addition, after the program participant successfully completes the six-month externship program, a freestanding health care organization that has authority to provide medical quality certification, including, but not limited to, health plans, hospitals, and the Integrated Physician Association, is responsible for ensuring and overseeing the compliance of nonprofit community health centers medical quality assurance protocols, conducting site visits when necessary, and developing any additional protocols, surveys, or assessment tools to ensure that quality of care standards through quality assurance protocols are being appropriately followed by physicians participating in the program.

(7) Participating hospitals shall have the authority to establish criteria necessary to allow individuals participating in this three-year pilot program to be granted hospital privileges in their facilities.

(8) The Medical Board of California shall provide oversight review of both the implementation of this program and the evaluation required pursuant to subdivision (j). The board shall consult with the medical schools applying for funding to implement and evaluate this program, executive and medical directors of nonprofit community health centers wanting to employ program participants, and hospital administrators who will have these participants practicing in their hospital, as it conducts its oversight responsibilities of this program and evaluation. Any funding necessary for the implementation of this program,

including the evaluation and oversight functions, shall be secured from nonprofit philanthropic entities. Implementation of this program may not proceed unless appropriate funding is secured from nonprofit philanthropic entities. The board shall report to the Legislature every January during which the program is operational regarding the status of the program and the ability of the program to secure the funding necessary to carry out its required provisions. Notwithstanding Section 11005 of the Government Code, the board may accept funds from nonprofit philanthropic entities. The board shall, upon appropriation in the annual Budget Act, expend funds received from nonprofit philanthropic entities for this program.

(d) (1) Dentists from Mexico eligible to participate in this program shall comply with the following requirements or the requirements contained in paragraph (2):

(A) Be graduates from the National Autonomous University of Mexico School of Faculty Dentistry (Facultad de Odontología).

(B) Meet all criteria required for licensure in Mexico that is required and being applied by the National Autonomous University of Mexico School of Faculty Dentistry (Facultad de Odontología), including, but not limited to:

(i) A minimum grade point average.

(ii) A specified English language comprehension and conversational level.

(iii) Passage of a general examination.

(iv) Passage of an oral interview.

(C) Enroll and complete an orientation program that focuses on the following:

(i) Practical issues in pharmacology that shall be taught by an instructor who is affiliated with a California dental school approved by the Dental Board of California.

(ii) Practical issues and diagnosis in oral pathology that shall be taught by an instructor who is affiliated with a California dental school approved by the Dental Board of California.

(iii) Clinical applications that shall be taught by an instructor who is affiliated with a California dental school approved by the Dental Board of California.

(iv) Biomedical sciences that shall be taught by an instructor who is affiliated with a California dental school approved by the Dental Board of California.

(v) Clinical history management that shall be taught by an instructor who is affiliated with a California dental school approved by the Dental Board of California.

(vi) Special patient care that shall be taught by an instructor who is affiliated with a California dental school approved by the Dental Board of California.

(vii) Sedation techniques that shall be taught by an instructor who is affiliated with a California dental school approved by the Dental Board of California.

(viii) Infection control guidelines which shall be taught by an instructor who is affiliated with a California dental school approved by the Dental Board of California.

(ix) Introduction to health care systems in California.

(x) Introduction to community clinic operations.

(2) (A) Graduate within the three-year period prior to enrollment in the program, from a foreign dental school that has received provisional approval or certification by November of 2003 from the Dental Board of California under the Foreign Dental School Approval Program.

(B) Enroll and satisfactorily complete an orientation program that focuses on the health care system and community clinic operations in California.

(C) Enroll and satisfactorily complete a course taught by an approved foreign dental school on the infection control guidelines adopted by the Dental Board of California.

(3) Upon satisfactory completion to a competency level of the requirements in paragraph (1) or (2), dentists participating in the program shall be eligible to obtain employment in a nonprofit community health center pursuant to subdivision (f) within the structure of an extramural dental program for a period not to exceed three years.

(4) Dentists participating in the program shall be required to complete the necessary continuing education units required by the Dental Practice Act (Chapter 4 (commencing with Section 1600)).

(5) The program shall accept 30 participating dentists. The program shall also maintain an alternate list of program applicants. If an active program participant leaves the program for any reason, a participating dentist from the alternate list shall be chosen to fill the vacancy. Only active program participants shall be required to complete the orientation program specified in subparagraph (C) of paragraph (1).

(6) (A) Additionally, an extramural dental facility may be identified, qualified, and approved by the board as an adjunct to, and an extension of, the clinical and laboratory departments of an approved dental school.

(B) As used in this subdivision, "extramural dental facility" includes, but is not limited to, any clinical facility linked to an approved dental school for the purposes of monitoring or overseeing the work of a dentist licensed in Mexico participating in this program and that is employed by an approved dental school for instruction in dentistry that exists outside or beyond the walls, boundaries, or precincts of the

primary campus of the approved dental school, and in which dental services are rendered. These facilities shall include nonprofit community health centers.

(C) Dental services provided to the public in these facilities shall constitute a part of the dental education program.

(D) Approved dental schools shall register extramural dental facilities with the board. This registration shall be accompanied by information supplied by the dental school pertaining to faculty supervision, scope of treatment to be rendered, arrangements for postoperative care, the name and location of the facility, the date operations shall commence at the facility, and a description of the equipment and facilities available. This information shall be supplemented with a copy of the agreement between the approved dental school and the affiliated institution establishing the contractual relationship. Any change in the information initially provided to the board shall be communicated to the board.

(7) The program shall also include issues dealing with program operations, and shall be developed in consultation by representatives of community clinics, approved dental schools, and the National Autonomous University of Mexico School of Faculty Dentistry (Facultad de Odontología).

(8) The Dental Board of California shall provide oversight review of the implementation of this program and the evaluation required pursuant to subdivision (j). The board shall consult with dental schools in California that have applied for funding to implement and evaluate this program and executive and dental directors of nonprofit community health centers wanting to employ program participants, as it conducts its oversight responsibilities of this program and evaluation. Implementation of this program may not proceed unless appropriate funding is secured from nonprofit philanthropic entities. The board shall report to the Legislature every January during which the program is operational regarding the status of the program and the ability of the program to secure the funding necessary to carry out its required provisions. Notwithstanding Section 11005 of the Government Code, the board may accept funds from nonprofit philanthropic entities.

(e) Nonprofit community health centers that employ participants shall be responsible for ensuring that participants are enrolled in local English-language instruction programs and that the participants attain English-language fluency at a level that would allow the participants to serve the English-speaking patient population when necessary and have the literacy level to communicate with appropriate hospital staff when necessary.

(f) Physicians and dentists from Mexico having met the applicable requirements set forth in subdivisions (c) and (d) shall be placed in a pool

of candidates who are eligible to be recruited for employment by nonprofit community health centers in California, including, but not limited to, those located in the Counties of Ventura, Los Angeles, San Bernardino, Imperial, Monterey, San Benito, Sacramento, San Joaquin, Santa Cruz, Yuba, Orange, Colusa, Glenn, Sutter, Kern, Tulare, Fresno, Stanislaus, San Luis Obispo, and San Diego. The Medical Board of California shall ensure that all Mexican physicians participating in this program have satisfactorily met the requirements set forth in subdivision (c) prior to placement at a nonprofit community health center.

(g) Nonprofit community health centers in the counties listed in subdivision (f) shall apply to the Medical Board of California and the Dental Board of California to hire eligible applicants who shall then be required to complete a six-month externship that includes working in the nonprofit community health center and a corresponding hospital. Once enrolled in this externship, and upon payment of the required fees, the Medical Board of California shall issue a three-year nonrenewable license to practice medicine and the Dental Board of California shall issue a three-year nonrenewable dental special permit to practice dentistry. For purposes of this program, the fee for a three-year nonrenewable license to practice medicine shall be nine hundred dollars (\$900) and the fee for a three-year nonrenewable dental permit shall be five hundred forty-eight dollars (\$548). A licensee or permit holder shall practice only in the nonprofit community health center that offered him or her employment and the corresponding hospital. This three-year nonrenewable license or permit shall be deemed to be a license or permit in good standing pursuant to the provisions of this chapter for the purpose of participation and reimbursement in all federal, state, and local health programs, including managed care organizations and health maintenance organizations.

(h) The three-year nonrenewable license or permit shall terminate upon notice by certified mail, return receipt requested, to the licensee's or permit holder's address of record, if, in the Medical Board of California or Dental Board of California's sole discretion, it has determined that either:

(1) The license or permit was issued by mistake.

(2) A complaint has been received by either board against the licensee or permit holder that warrants terminating the license or permit pending an investigation and resolution of the complaint.

(i) All applicable employment benefits, salary, and policies provided by nonprofit community health centers to their current employees shall be provided to medical and dental practitioners from Mexico participating in this pilot program. This shall include nonprofit community health centers providing malpractice insurance coverage.

(j) Beginning 12 months after this pilot program has commenced, an evaluation of the program shall be undertaken with funds provided from philanthropic foundations. The evaluation shall be conducted jointly by one medical school and one dental school in California and UNAM in consultation with the Medical Board of California and the Dental Board of California. If the evaluation required pursuant to this section does not begin within 15 months after the pilot project has commenced, the evaluation may be performed by an independent consultant selected by the Director of the Department of Consumer Affairs. This evaluation shall include, but not be limited to, the following issues and concerns:

(1) Quality of care provided by doctors and dentists licensed under this pilot program.

(2) Adaptability of these licensed practitioners to California medical and dental standards.

(3) Impact on working and administrative environment in nonprofit community health centers and impact on interpersonal relations with medical licensed counterparts in health centers.

(4) Response and approval by patients.

(5) Impact on cultural and linguistic services.

(6) Increases in medical encounters provided by participating practitioners to limited-English-speaking patient populations and increases in the number of limited-English-speaking patients seeking health care services from nonprofit community health centers.

(7) Recommendations on whether the program should be continued, expanded, altered, or terminated.

(8) Progress reports on available data listed shall be provided to the Legislature on achievable time intervals beginning the second year of implementation of this pilot program. An interim final report shall be issued three months before termination of this pilot program. A final report shall be submitted to the Legislature at the time of termination of this pilot program on all of the above data. The final report shall reflect and include how other initiatives concerning the development of culturally and linguistically competent medical and dental providers within California and the United States are impacting communities in need of these health care providers.

(k) Costs for administering this pilot program shall be secured from philanthropic entities.

(l) Program applicants shall be responsible for working with the governments of Mexico and the United States in order to obtain the necessary three-year visa required for program participation.

SEC. 3. Section 2241.5 of the Business and Professions Code is amended to read:

2241.5. (a) Notwithstanding any other provision of law, a physician and surgeon may prescribe or administer controlled

substances to a person in the course of the physician and surgeon's treatment of that person for a diagnosed condition causing intractable pain.

(b) "Intractable pain," as used in this section, means a pain state in which the cause of the pain cannot be removed or otherwise treated and which in the generally accepted course of medical practice no relief or cure of the cause of the pain is possible or none has been found after reasonable efforts, including, but not limited to, evaluation by the attending physician and surgeon and one or more physicians and surgeons specializing in the treatment of the area, system, or organ of the body perceived as the source of the pain.

(c) No physician and surgeon shall be subject to disciplinary action by the board for prescribing or administering controlled substances in the course of treatment of a person for intractable pain.

(d) This section shall not apply to those persons being treated by the physician and surgeon for chemical dependency because of their use of drugs or controlled substances.

(e) This section shall not authorize a physician and surgeon to prescribe or administer controlled substances to a person the physician and surgeon knows to be using drugs or substances for nontherapeutic purposes.

(f) This section shall not affect the power of the board to deny, revoke, or suspend the license of any physician and surgeon who does any of the following:

(1) Prescribes or administers a controlled substance or treatment that is nontherapeutic in nature or nontherapeutic in the manner the controlled substance or treatment is administered or prescribed or is for a nontherapeutic purpose in a nontherapeutic manner.

(2) Fails to keep complete and accurate records of purchases and disposals of substances listed in the California Controlled Substances Act, or of controlled substances scheduled in, or pursuant to, the federal Comprehensive Drug Abuse Prevention and Control Act of 1970. A physician and surgeon shall keep records of his or her purchases and disposals of these drugs, including the date of purchase, the date and records of the sale or disposal of the drugs by the physician and surgeon, the name and address of the person receiving the drugs, and the reason for the disposal of or the dispensing of the drugs to the person and shall otherwise comply with all state recordkeeping requirements for controlled substances.

(3) Writes false or fictitious prescriptions for controlled substances listed in the California Controlled Substances Act or scheduled in the federal Comprehensive Drug Abuse Prevention and Control Act of 1970.

(4) Prescribes, administers, or dispenses in a manner not consistent with public health and welfare controlled substances listed in the California Controlled Substances Act or scheduled in the federal Comprehensive Drug Abuse Prevention and Control Act of 1970.

(5) Prescribes, administers, or dispenses in violation of either Chapter 4 (commencing with Section 11150) or Chapter 5 (commencing with Section 11210) of Division 10 of the Health and Safety Code or this chapter.

(g) Nothing in this section shall be construed to prohibit the governing body of a hospital from taking disciplinary actions against a physician and surgeon, as authorized pursuant to Sections 809.05, 809.4, and 809.5.

SEC. 4. Section 2260 of the Business and Professions Code is amended to read:

2260. (a) A physician and surgeon who removes sperm or ova from a patient shall, before the sperm or ova are used for a purpose other than reimplantation in the same patient or implantation in the spouse of the patient, obtain the written consent of the patient as provided in subdivision (b).

(b) The consent required by subdivision (a) shall conform to all of the following requirements:

(1) The consent shall be in writing and shall contain the following statement: I (name of donor) do hereby donate (type and number, if applicable, of sperm or ova), to (name of clinic or other donee) for (specify purpose).

(2) The consent shall contain a statement by the donor that specifies the disposition of any unused donated material.

(3) The consent shall be signed by the patient and by the physician and surgeon who removes the sperm or ova.

(4) The physician and surgeon shall retain the original consent in the medical record of the patient and give a copy of the consent to the patient.

(5) The consent shall contain a notification to the patient that the written consent is an important document that should be retained with other vital records.

(6) If the procedure to remove the sperm or ova is performed in a hospital, the physician and surgeon shall provide a copy of the consent to the hospital.

(c) Nothing in this section shall affect the obligation of a physician and surgeon under current law to obtain the informed consent of a patient before performing a medical procedure on the patient that may significantly affect the patient's reproductive health or ability to conceive, or both.

(d) A violation of this section constitutes unprofessional conduct. Section 2314 shall not apply to this section.

(e) A physician and surgeon who fails, for the second time, to obtain any consent required in subdivision (a) or (b) before transferring sperm or ova from a provider of sperm or ova to a recipient, shall be assessed a civil penalty in an amount not less than one thousand dollars (\$1,000) and not more than five thousand dollars (\$5,000) plus court costs, as determined by the court, which penalty and costs shall be paid to the individual whose required consent was not obtained. A separate penalty shall be assessed for each individual from whom the consent was not obtained. The penalties in this section shall be available in addition to any other remedies that may be available under other provisions of law.

SEC. 5. Section 3651 of the Business and Professions Code is amended to read:

3651. In order to be certified for the specialty practice of naturopathic childbirth attendance, a naturopathic doctor shall obtain a passing grade on the American College of Nurse Midwives Written Examination, or a substantially equivalent examination approved by the bureau, and shall establish, to the bureau's satisfaction, compliance with one of the following requirements:

(a) Successful completion of a certificate of midwifery or naturopathic obstetrics specialty from an approved naturopathic medical education program consisting of not less than 84 semester units or 126 quarter units that substantially complies with the following educational standards and requirements:

(1) The curriculum is presented in semester or quarter units under the following formula:

(A) One hour of instruction in theory each week throughout a semester or quarter equals one unit.

(B) Three hours of clinical practice each week throughout a semester or quarter equals one unit.

(2) The program provides both academic and clinical preparation that is substantially equivalent to that provided in a program accredited by the American College of Nurse Midwives. The program includes, but is not limited to, preparation in all of the following areas:

(A) The art and science of midwifery, one-half of which shall be in theory and one-half of which shall be in clinical practice. Theory and clinical practice shall be concurrent in the areas of maternal and child health, including, but not limited to, labor and delivery, neonatal well care, and postpartum care.

(B) Communications skills that include the principles of oral, written, and group communications.

(C) Anatomy and physiology, genetics, obstetrics and gynecology, embryology and fetal development, neonatology, applied microbiology, chemistry, child growth and development, pharmacology, nutrition, laboratory diagnostic tests and procedures, and physical assessment.

(D) Concepts in psychosocial, emotional, and cultural aspects of maternal and child care, human sexuality, counseling and teaching, maternal and infant and family bonding process, breast feeding, family planning, principles of preventive health, and community health.

(E) Aspects of the normal pregnancy, labor and delivery, postpartum period, newborn care, family planning, or routine gynecological care in alternative birth centers, homes, and hospitals.

(3) The program integrates the following subjects throughout its entire curriculum:

(A) Midwifery process.

(B) Basic intervention skills in preventive, remedial, and supportive midwifery.

(C) The knowledge and skills required to develop collegial relationships with health care providers from other disciplines.

(D) Related behavioral and social sciences with emphasis on societal and cultural patterns, human development, and behavior related to maternal and child health, illness, and wellness.

(4) Instruction in personal hygiene, client abuse, cultural diversity, and the legal, social, and ethical aspects of midwifery.

(5) Instruction in the midwifery management process which shall include all of the following:

(A) Obtaining or updating a defined and relevant database for assessment of the health status of the client.

(B) Identifying problems based upon correct interpretation of the database.

(C) Preparing a defined needs or problem list, or both, with corroboration from the client.

(D) Consulting, collaborating with, and referring to, appropriate members of the health care team.

(E) Providing information to enable clients to make appropriate decisions and to assume appropriate responsibility for their own health.

(F) Assuming direct responsibility for the development of comprehensive, supportive care for the client and with the client.

(G) Assuming direct responsibility for implementing the plan of care.

(H) Initiating appropriate measures for obstetrical and neonatal emergencies.

(I) Evaluating, with corroboration from the client, the achievement of health care goals and modifying the plan of care appropriately.

(b) Successful completion of an educational program that the bureau has determined satisfies the criteria of subdivision (a) and current licensure as a midwife by a state with licensing standards that have been found by the bureau to be substantially equivalent to those adopted by the bureau pursuant to this article.

SEC. 6. Section 4052 of the Business and Professions Code is amended to read:

4052. (a) Notwithstanding any other provision of law, a pharmacist may do any of the following:

(1) Furnish a reasonable quantity of compounded medication to a prescriber for office use by the prescriber.

(2) Transmit a valid prescription to another pharmacist.

(3) Administer, orally or topically, drugs and biologicals pursuant to a prescriber's order.

(4) Perform the following procedures or functions in a licensed health care facility in accordance with policies, procedures, or protocols developed by health professionals, including physicians, pharmacists, and registered nurses, with the concurrence of the facility administrator:

(A) Ordering or performing routine drug therapy-related patient assessment procedures including temperature, pulse, and respiration.

(B) Ordering drug therapy-related laboratory tests.

(C) Administering drugs and biologicals by injection pursuant to a prescriber's order (the administration of immunizations under the supervision of a prescriber may also be performed outside of a licensed health care facility).

(D) Initiating or adjusting the drug regimen of a patient pursuant to an order or authorization made by the patient's prescriber and in accordance with the policies, procedures, or protocols of the licensed health care facility.

(5) (A) Perform the following procedures or functions as part of the care provided by a health care facility, a licensed home health agency, a licensed clinic in which there is a physician oversight, a provider who contracts with a licensed health care service plan with regard to the care or services provided to the enrollees of that health care service plan, or a physician, in accordance, as applicable, with policies, procedures, or protocols of that facility, the home health agency, the licensed clinic, the health care service plan, or that physician, in accordance with subparagraph (C):

(i) Ordering or performing routine drug therapy-related patient assessment procedures, including temperature, pulse, and respiration.

(ii) Ordering drug therapy-related laboratory tests.

(iii) Administering drugs and biologicals by injection pursuant to a prescriber's order (the administration of immunizations under the supervision of a prescriber may also be performed outside of a licensed health care facility).

(iv) Initiating or adjusting the drug regimen of a patient pursuant to a specific written order or authorization made by the patient's prescriber for the individual patient, and in accordance with the policies, procedures, or protocols of the health care facility, home health agency,

licensed clinic, health care service plan, or physician. Adjusting the drug regimen does not include substituting or selecting a different drug, except as authorized by the protocol. The pharmacist shall provide written notification to the patient's prescriber, or enter the appropriate information in an electronic patient record system shared by the prescriber, of any drug regimen initiated pursuant to this clause within 24 hours.

(B) A patient's prescriber may prohibit, by written instruction, any adjustment or change in the patient's drug regimen by the pharmacist.

(C) The policies, procedures, or protocols referred to in this paragraph shall be developed by health care professionals, including physicians, pharmacists, and registered nurses, and, at a minimum, meet all of the following requirements:

(i) Require that the pharmacist function as part of a multidisciplinary group that includes physicians and direct care registered nurses. The multidisciplinary group shall determine the appropriate participation of the pharmacist and the direct care registered nurse.

(ii) Require that the medical records of the patient be available to both the patient's prescriber and the pharmacist.

(iii) Require that the procedures to be performed by the pharmacist relate to a condition for which the patient has first been seen by a physician.

(iv) Except for procedures or functions provided by a health care facility, a licensed clinic in which there is physician oversight, or a provider who contracts with a licensed health care plan with regard to the care or services provided to the enrollees of that health care service plan, require the procedures to be performed in accordance with a written, patient-specific protocol approved by the treating or supervising physician. Any change, adjustment, or modification of an approved preexisting treatment or drug therapy shall be provided in writing to the treating or supervising physician within 24 hours.

(6) Manufacture, measure, fit to the patient, or sell and repair dangerous devices or furnish instructions to the patient or the patient's representative concerning the use of those devices.

(7) Provide consultation to patients and professional information, including clinical or pharmacological information, advice, or consultation to other health care professionals.

(8) (A) Furnish emergency contraception drug therapy in accordance with either of the following:

(i) Standardized procedures or protocols developed by the pharmacist and an authorized prescriber who is acting within his or her scope of practice.

(ii) Standardized procedures or protocols developed and approved by both the board and the Medical Board of California in consultation with

the American College of Obstetricians and Gynecologists, the California Pharmacists Association, and other appropriate entities. Both the board and the Medical Board of California shall have authority to ensure compliance with this clause, and both boards are specifically charged with the enforcement of this provision with respect to their respective licensees. Nothing in this clause shall be construed to expand the authority of a pharmacist to prescribe any prescription medication.

(B) Prior to performing a procedure authorized under this paragraph, a pharmacist shall complete a training program on emergency contraception that consists of at least one hour of approved continuing education on emergency contraception drug therapy.

(C) A pharmacist, pharmacist's employer, or pharmacist's agent may not directly charge a patient a separate consultation fee for emergency contraception drug therapy services initiated pursuant to this paragraph, but may charge an administrative fee not to exceed ten dollars (\$10) above the retail cost of the drug. Upon an oral, telephonic, electronic, or written request from a patient or customer, a pharmacist or pharmacist's employee shall disclose the total retail price that a consumer would pay for emergency contraception drug therapy. As used in this subparagraph, total retail price includes providing the consumer with specific information regarding the price of the emergency contraception drugs and the price of the administrative fee charged. This limitation is not intended to interfere with other contractually agreed-upon terms between a pharmacist, a pharmacist's employer, or a pharmacist's agent and a health care service plan or insurer. Patients who are insured or covered and receive a pharmacy benefit that covers the cost of emergency contraception shall not be required to pay an administrative fee. These patients shall be required to pay copayments pursuant to the terms and conditions of their coverage. The provisions of this subparagraph shall cease to be operative for dedicated emergency contraception drugs when these drugs are reclassified as over-the-counter products by the federal Food and Drug Administration.

(D) A pharmacist may not require a patient to provide individually identifiable medical information that is not specified in Section 1707.1 of Title 16 of the California Code of Regulations before initiating emergency contraception drug therapy pursuant to this paragraph.

(b) (1) Prior to performing any procedure authorized by paragraph (4) of subdivision (a), a pharmacist shall have received appropriate training as prescribed in the policies and procedures of the licensed health care facility.

(2) Prior to performing any procedure authorized by paragraph (5) of subdivision (a), a pharmacist shall have either (A) successfully completed clinical residency training or (B) demonstrated clinical experience in direct patient care delivery.

(3) For each emergency contraception drug therapy initiated pursuant to paragraph (8) of subdivision (a), the pharmacist shall provide the recipient of the emergency contraception drugs with a standardized factsheet that includes, but is not limited to, the indications for use of the drug, the appropriate method for using the drug, the need for medical followup, and other appropriate information. The board shall develop this form in consultation with the State Department of Health Services, the American College of Obstetricians and Gynecologists, the California Pharmacists Association, and other health care organizations. The provisions of this section do not preclude the use of existing publications developed by nationally recognized medical organizations.

(c) Nothing in this section shall affect the requirements of existing law relating to maintaining the confidentiality of medical records.

(d) Nothing in this section shall affect the requirements of existing law relating to the licensing of a health care facility.

SEC. 7. Section 4311 of the Business and Professions Code is amended to read:

4311. (a) Any license issued by the board, or the holder thereof, shall be suspended automatically during any time that the person is incarcerated after conviction of a felony, regardless of whether the conviction has been appealed. The board, immediately upon receipt of a certified copy of a record of a criminal conviction, shall determine whether the person has been automatically suspended by virtue of incarceration pursuant to a felony conviction and, if so, the duration of that suspension. The board shall notify the person so suspended of the suspension and that the person has a right to request a hearing, solely as to whether he or she is incarcerated pursuant to a felony conviction, in writing at that person's address of record with the board and at the facility in which the person is incarcerated.

(b) In addition to any suspension under subdivision (a), the board shall summarily suspend any license issued by the board where a conviction of the holder of the license meets the requirements of paragraphs (1) and (2).

(1) A felony that was either of the following:

(A) Committed in the course of a business or practice for which the board issues a license.

(B) Committed in a manner that a client, customer, or patient of the licensee was a victim.

(2) Where an element of the offense involves either of the following:

(A) The specific intent to deceive, defraud, steal, or make a false statement.

(B) The illegal sale or possession for sale of or trafficking in any controlled substance.

(3) The suspension shall continue until the time for appeal has elapsed, if no appeal is taken, or until the judgment of conviction has been affirmed on appeal or has otherwise become final, and until further order of the board.

(4) The board shall immediately send notice in writing of the suspension to the licensee, or the holder of any other board-issued license, at his or her address of record and, if incarcerated at the time, at the facility in which the person is incarcerated. The notice shall include notification of that person's right to elect to have the issue of penalty heard as provided in paragraph (2) of subdivision (d), and of the right to request a hearing to contest the summary suspension. Any request for a hearing under this paragraph must be received by the board within 15 days following receipt of the notice provided for by this paragraph.

(5) The hearing shall be before an administrative law judge, a committee of the board sitting with an administrative law judge, or the board sitting with an administrative law judge, at the board's discretion, and shall be subject to review by the board, at its discretion. The hearing shall be limited to (A) whether there has been a felony conviction as stated in the board's notice, and (B) whether the conviction meets the criteria of this subdivision, except where the licensee chooses to proceed as provided by paragraph (2) of subdivision (d), or where the board has also filed and served an accusation as provided in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code and given notice of the hearing as required by that chapter; provided that if an accusation under Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code is also to be heard, only an administrative law judge sitting alone or the board, sitting with an administrative law judge, may hear the case.

(c) In addition to any suspension under subdivision (a), the board shall also suspend any license issued by the board, or the holder thereof, if the board determines that the felony conviction of the holder of the license is substantially related to the qualifications, functions, or duties of the licensee.

(1) Notice of the board's determination shall be sent to the licensee, or the holder thereof, at that person's address of record with the board and, if the person is incarcerated at the time, the facility in which the person is incarcerated. The notice shall advise the person that the license shall be suspended without hearing unless, within 15 days following receipt of the notice, a written request for hearing is delivered to the board.

(2) Upon receipt of a timely request for hearing, a notice of hearing shall be sent to the person at least 10 days before the date scheduled for the hearing. The notice of hearing shall include notification of that

person's right to elect to have the issue of penalty heard as provided in paragraph (2) of subdivision (d).

(3) The hearing to determine whether a felony conviction is substantially related for purposes of an interim suspension under this subdivision shall be separate from any hearing on an accusation under the Administrative Procedure Act, except where the licensee elects to proceed under paragraph (2) of subdivision (d), or where the board has filed and served an accusation as provided by Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code and given notice of hearing as required by that chapter. The hearing on whether the felony conviction is substantially related shall be heard either by an administrative law judge sitting alone, by a committee of the board sitting with an administrative law judge, or by the board sitting with an administrative law judge, at the board's discretion, and shall be subject to review by the board, at its discretion. However, if an accusation under Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code is also to be heard, only an administrative law judge sitting alone or the board, sitting with an administrative law judge, may hear the case. Except where a person proceeds under paragraph (2) of subdivision (d), or the board proceeds with an accusation at the same time, any suspension imposed under this subdivision shall continue until an accusation is filed under Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code and a final decision is rendered by the board.

(4) A conviction of any crime referred to in Section 4301, or for violation of Section 187, 261, or 288 of the Penal Code, shall be conclusively presumed to be substantially related to the qualifications, functions, or duties of a licensee of the board. Upon its own motion or for good cause shown the board may decline to impose a suspension under this subdivision or may set aside a suspension previously imposed when it appears to be in the interest of justice to do so, with due regard to maintaining the integrity of and confidence in the practice of pharmacy and the handling of dangerous drugs and devices.

(d) (1) Discipline may be ordered in accordance with Section 4300 or an application denied when the time for appeal has elapsed, the judgment of conviction has been affirmed on appeal, or an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, setting aside the verdict of guilty, or dismissing the accusation, complaint, information, or indictment.

(2) The issue of penalty shall be heard by an administrative law judge sitting alone or with a committee of the board or with the board itself, at the board's discretion, and any decision shall be subject to review by

the board, at its discretion. The hearing shall not be held until the judgment of conviction has become final or, irrespective of a subsequent order under Section 1203.4 of the Penal Code, an order granting probation has been made suspending the imposition of sentence, provided that a licensee may, at his or her option, elect to have the issue of penalty decided before those time periods have elapsed. Where the licensee so elects, the issue of penalty shall be heard in the manner described in this section at the hearing to determine whether the conviction was substantially related to the qualifications, functions, or duties of the licensee. If the conviction of a licensee who has made this election is overturned on appeal, any discipline ordered pursuant to this section shall automatically cease. Nothing in this subdivision shall prohibit the board from pursuing disciplinary action based on any cause, including the facts underlying the conviction, other than the overturned conviction.

(3) The record of the proceedings resulting in the criminal conviction, including a transcript of any testimony taken in connection with the proceeding, may be received in evidence in any administrative proceeding to the extent the testimony would otherwise be admissible under Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. A certified copy of the criminal conviction shall be conclusive proof of the fact of the conviction.

(e) Other provisions of this chapter setting forth procedures for the suspension or revocation of a license issued by the board shall not apply to proceedings conducted pursuant to this section, except as specifically provided in this section.

(f) For purposes of this section, a crime is a felony if it is specifically declared to be so or is made a felony by subdivision (a) of Section 17 of the Penal Code, unless it is charged as a misdemeanor pursuant to paragraph (4) or (5) of subdivision (b) of Section 17 of the Penal Code, irrespective of whether in a particular case the crime may be considered a misdemeanor as a result of postconviction proceedings. For purposes of this section, a felony also includes a conviction under federal law, or the law of any other state of the United States, of the District of Columbia, or of any territory or possession of the United States. A conviction includes a plea or verdict of guilty or a conviction following a plea of nolo contendere.

(g) The board may delegate the authority to issue a suspension under subdivision (a) or (b) or a notice of suspension under subdivision (c) to the executive officer of the board.

SEC. 8. Section 4409 of the Business and Professions Code is amended to read:

4409. At the time a pharmacy license is renewed pursuant to subdivision (a) of Section 4110 or a pharmacist license is renewed

pursuant to Section 4401, the pharmacy or pharmacist may make a twenty-five dollar (\$25) contribution, to be submitted to the board, for the sole purpose of funding the California Pharmacist Scholarship and Loan Repayment Program established pursuant to Article 2 (commencing with Section 128198) of Chapter 3 of Part 3 of Division 107 of the Health and Safety Code. The contribution submitted pursuant to this section shall be paid into the State Treasury and credited to the California Pharmacist Scholarship and Loan Repayment Program Fund established pursuant to Section 128198.5 of the Health and Safety Code.

SEC. 9. Section 4980.90 of the Business and Professions Code is amended to read:

4980.90. (a) Experience gained outside of California shall be accepted toward the licensure requirements if it is substantially equivalent to that required by this chapter and if the applicant has gained a minimum of 250 hours of supervised experience in direct counseling within California while registered as an intern with the board.

(b) Education gained outside of California shall be accepted toward the licensure requirements if it is substantially equivalent to the education requirements of this chapter, and if the applicant has completed all of the following:

(1) A two semester- or three quarter-unit course in California law and professional ethics for marriage, family, and child counselors that shall include areas of study as specified in Section 4980.41.

(2) A minimum of seven contact hours of training or coursework in child abuse assessment and reporting as specified in Section 28 and any regulations promulgated thereunder.

(3) A minimum of 10 contact hours of training or coursework in sexuality as specified in Section 25 and any regulations promulgated thereunder.

(4) A minimum of 15 contact hours of training or coursework in alcoholism and other chemical substance dependency as specified by regulation.

(5) (A) Instruction in spousal or partner abuse assessment, detection, and intervention. This instruction may be taken either in fulfillment of other educational requirements for licensure or in a separate course.

(B) On and after January 1, 2004, a minimum of 15 contact hours of coursework or training in spousal or partner abuse assessment, detection, and intervention strategies.

(6) On and after January 1, 2003, a minimum of a two semester- or three quarter-unit survey course in psychological testing. This course may be taken either in fulfillment of other requirements for licensure or in a separate course.

(7) On and after January 1, 2003, a minimum of a two semester- or three quarter-unit survey course in psychopharmacology. This course

may be taken either in fulfillment of other requirements for licensure or in a separate course.

(8) With respect to human sexuality, alcoholism and other chemical substance dependency, spousal or partner abuse assessment, detection, and intervention, psychological testing, and psychopharmacology, the board may accept training or coursework acquired out of state.

(c) For purposes of this section, the board may, in its discretion, accept education as substantially equivalent if the applicant has been granted a degree in a single integrated program primarily designed to train marriage, family, and child counselors and if the applicant's education meets the requirements of Sections 4980.37 and 4980.40. The degree title and number of units in the degree program need not be identical to those required by subdivision (a) of Section 4980.40. If the applicant's degree does not contain the number of units required by subdivision (a) of Section 4980.40, the board may, in its discretion, accept the applicant's education as substantially equivalent if the applicant's degree otherwise complies with this section and the applicant completes the units required by subdivision (a) of Section 4980.40.

SEC. 10. Section 7026.1 of the Business and Professions Code is amended to read:

7026.1. The term "contractor" includes all of the following:

(a) Any person not exempt under Section 7053 who maintains or services air-conditioning, heating, or refrigeration equipment that is a fixed part of the structure to which it is attached.

(b) Any person, consultant to an owner-builder, firm, association, organization, partnership, business trust, corporation, or company, who or which undertakes, offers to undertake, purports to have the capacity to undertake, or submits a bid, to construct any building or home improvement project, or part thereof.

(c) A temporary labor service agency that, as the employer, provides employees for the performance of work covered by this chapter. The provisions of this subdivision shall not apply if there is a properly licensed contractor who exercises supervision in accordance with Section 7068.1 and who is directly responsible for the final results of the work. Nothing in this subdivision shall require a qualifying individual, as provided in Section 7068, to be present during the supervision of work covered by this chapter. A contractor requesting the services of a temporary labor service agency shall provide his or her license number to that temporary labor service agency.

(d) Any person not otherwise exempt by this chapter, who performs tree removal, tree pruning, stump removal, or engages in tree or limb cabling or guying. The term contractor does not include a person performing the activities of a nurseryperson who in the normal course of routine work performs incidental pruning of trees, or guying of

planted trees and their limbs. The term contractor does not include a gardener who in the normal course of routine work performs incidental pruning of trees measuring less than 15 feet in height after planting.

(e) Any person engaged in the business of drilling, digging, boring, or otherwise constructing, deepening, repairing, reperforming, or abandoning any water well, cathodic protection well, or monitoring well.

SEC. 11. Section 7028 of the Business and Professions Code is amended to read:

7028. (a) It is a misdemeanor for any person to engage in the business or act in the capacity of a contractor within this state without having a license therefor, unless the person is particularly exempted from the provisions of this chapter.

(b) If a person has been previously convicted of the offense described in this section, the court shall impose a fine of 20 percent of the price of the contract under which the unlicensed person performed contracting work, or four thousand five hundred dollars (\$4,500), whichever is greater, and the person shall be confined in a county jail for not less than 90 days, except in an unusual case where the interests of justice would be served by imposition of a lesser sentence or a fine. If the court imposes only a fine or a jail sentence of less than 90 days for second or subsequent convictions under this section, the court shall state the reasons for its sentencing choice on the record.

(c) In the event the person performing the contracting work has agreed to furnish materials and labor on an hourly basis, "the price of the contract" for the purposes of this section means the aggregate sum of the cost of materials and labor furnished and the cost of completing the work to be performed.

(d) Notwithstanding any other provision of law to the contrary, an indictment for any violation of this section by the unlicensed contractor shall be found or an information or complaint filed within four years from the date of the contract proposal, contract, completion, or abandonment of the work, whichever occurs last.

SEC. 12. Section 12107.1 of the Business and Professions Code is amended to read:

12107.1. The director, by regulation, may establish a standard or standards of net weight or net measure, or net count of any commodity, except any manufactured commodity consisting of four or more staple ingredients. These standards, whenever applicable, shall be based upon published, official federal or state specifications and requirements or, in the absence of any such published official specifications, upon established and accepted common usage. Any regulation shall be adopted, amended, or repealed in conformity with the provisions of

Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

Whenever a standard, net weight, net measure, or net count has been established for any commodity, it is unlawful to sell the commodity by, at, or for a quantity greater or less than the standard.

SEC. 13. Section 13570 of the Business and Professions Code is amended to read:

13570. (a) A manufacturer, blender, agent, jobber, consignment agent, or distributor who distributes motor fuel products that contain at least 1 percent alcohol by volume, shall state on an invoice, bill of lading, shipping paper, or other documentation used in normal and customary business practices, the percentage of alcohol, the type of alcohol, and, except in documentation certifying the octane rating of gasoline as required by federal law, the minimum antiknock index number, as defined in Section 13403, of the products distributed.

(b) If a motor vehicle fuel product contains less than 10 percent alcohol, a statement in the documentation that the product "contains up to 10% ethanol" meets the requirement of subdivision (a) that it state the percentage of alcohol.

(c) This section, as it relates to certification of the minimum antiknock index number, applies to all motor vehicle gasoline distributed.

SEC. 14. Section 17529.1 of the Business and Professions Code is amended to read:

17529.1. For the purpose of this article, the following definitions apply:

(a) "Advertiser" means a person or entity that advertises through the use of commercial e-mail advertisements.

(b) "California electronic mail address" or "California e-mail address" means any of the following:

(1) An e-mail address furnished by an electronic mail service provider that sends bills for furnishing and maintaining that e-mail address to a mailing address in this state.

(2) An e-mail address ordinarily accessed from a computer located in this state.

(3) An e-mail address furnished to a resident of this state.

(c) "Commercial e-mail advertisement" means any electronic mail message initiated for the purpose of advertising or promoting the lease, sale, rental, gift offer, or other disposition of any property, goods, services, or extension of credit.

(d) "Direct consent" means that the recipient has expressly consented to receive e-mail advertisements from the advertiser, either in response to a clear and conspicuous request for the consent or at the recipient's own initiative.

(e) “Domain name” means any alphanumeric designation that is registered with or assigned by any domain name registrar as part of an electronic address on the Internet.

(f) “Electronic mail” or “e-mail” means an electronic message that is sent to an e-mail address and transmitted between two or more telecommunications devices, computers, or electronic devices capable of receiving electronic messages, whether or not the message is converted to hard copy format after receipt, viewed upon transmission, or stored for later retrieval. “Electronic mail” or “e-mail” includes electronic messages that are transmitted through a local, regional, or global computer network.

(g) “Electronic mail address” or “e-mail address” means a destination, commonly expressed as a string of characters, to which electronic mail can be sent or delivered. An “electronic mail address” or “e-mail address” consists of a user name or mailbox and a reference to an Internet domain.

(h) “Electronic mail service provider” means any person, including an Internet service provider, that is an intermediary in sending or receiving electronic mail or that provides to end users of the electronic mail service the ability to send or receive electronic mail.

(i) “Initiate” means to transmit or cause to be transmitted a commercial e-mail advertisement or assist in the transmission of a commercial e-mail advertisement by providing electronic mail addresses where the advertisement may be sent, but does not include the routine transmission of the advertisement through the network or system of a telecommunications utility or an electronic mail service provider through its network or system.

(j) “Incident” means a single transmission or delivery to a single recipient or to multiple recipients of an unsolicited commercial e-mail advertisement containing substantially similar content.

(k) “Internet” has the meaning set forth in paragraph (6) of subdivision (e) of Section 17538.

(l) “Preexisting or current business relationship,” as used in connection with the sending of a commercial e-mail advertisement, means that the recipient has made an inquiry and has provided his or her e-mail address, or has made an application, purchase, or transaction, with or without consideration, regarding products or services offered by the advertiser.

Commercial e-mail advertisements sent pursuant to the exemption provided for a preexisting or current business relationship shall provide the recipient of the commercial e-mail advertisement with the ability to “opt-out” from receiving further commercial e-mail advertisements by calling a toll-free telephone number or by sending an “unsubscribe” e-mail to the advertiser offering the products or services in the

commercial e-mail advertisement. This opt-out provision does not apply to recipients who are receiving free e-mail service with regard to commercial e-mail advertisements sent by the provider of the e-mail service.

(m) "Recipient" means the addressee of an unsolicited commercial e-mail advertisement. If an addressee of an unsolicited commercial e-mail advertisement has one or more e-mail addresses to which an unsolicited commercial e-mail advertisement is sent, the addressee shall be deemed to be a separate recipient for each e-mail address to which the e-mail advertisement is sent.

(n) "Routine transmission" means the transmission, routing, relaying, handling, or storing of an electronic mail message through an automatic technical process. "Routine transmission" shall not include the sending, or the knowing participation in the sending, of unsolicited commercial e-mail advertisements.

(o) "Unsolicited commercial e-mail advertisement" means a commercial e-mail advertisement sent to a recipient who meets both of the following criteria:

(1) The recipient has not provided direct consent to receive advertisements from the advertiser.

(2) The recipient does not have a preexisting or current business relationship, as defined in subdivision (l), with the advertiser promoting the lease, sale, rental, gift offer, or other disposition of any property, goods, services, or extension of credit.

SEC. 15. Section 17538.45 of the Business and Professions Code is amended to read:

17538.45. (a) For purposes of this section, the following words have the following meanings:

(1) "Electronic mail advertisement" means any electronic mail message, the principal purpose of which is to promote, directly or indirectly, the sale or other distribution of goods or services to the recipient.

(2) "Unsolicited electronic mail advertisement" means any electronic mail advertisement that meets both of the following requirements:

(A) It is addressed to a recipient with whom the initiator does not have an existing business or personal relationship.

(B) It is not sent at the request of or with the express consent of the recipient.

(3) "Electronic mail service provider" means any business or organization qualified to do business in California that provides registered users the ability to send or receive electronic mail through equipment located in this state and that is an intermediary in sending or receiving electronic mail.

(4) “Initiation” of an unsolicited electronic mail advertisement refers to the action by the initial sender of the electronic mail advertisement. It does not refer to the actions of any intervening electronic mail service provider that may handle or retransmit the electronic message.

(5) “Registered user” means any individual, corporation, or other entity that maintains an electronic mail address with an electronic mail service provider.

(b) No registered user of an electronic mail service provider shall use or cause to be used that electronic mail service provider’s equipment located in this state in violation of that electronic mail service provider’s policy prohibiting or restricting the use of its service or equipment for the initiation of unsolicited electronic mail advertisements.

(c) No individual, corporation, or other entity shall use or cause to be used, by initiating an unsolicited electronic mail advertisement, an electronic mail service provider’s equipment located in this state in violation of that electronic mail service provider’s policy prohibiting or restricting the use of its equipment to deliver unsolicited electronic mail advertisements to its registered users.

(d) An electronic mail service provider shall not be required to create a policy prohibiting or restricting the use of its equipment for the initiation or delivery of unsolicited electronic mail advertisements.

(e) Nothing in this section shall be construed to limit or restrict the rights of an electronic mail service provider under Section 230(c)(1) of Title 47 of the United States Code, any decision of an electronic mail service provider to permit or to restrict access to or use of its system, or any exercise of its editorial function.

(f) (1) In addition to any other action available under law, any electronic mail service provider whose policy on unsolicited electronic mail advertisements is violated as provided in this section may bring a civil action to recover the actual monetary loss suffered by that provider by reason of that violation, or liquidated damages of fifty dollars (\$50) for each electronic mail message initiated or delivered in violation of this section, up to a maximum of twenty-five thousand dollars (\$25,000) per day, whichever amount is greater.

(2) In any action brought pursuant to paragraph (1), the court may award reasonable attorney’s fees to a prevailing party.

(3) (A) In any action brought pursuant to paragraph (1), the electronic mail service provider shall be required to establish as an element of its cause of action that prior to the alleged violation, the defendant had actual notice of both of the following:

(i) The electronic mail service provider’s policy on unsolicited electronic mail advertising.

(ii) The fact that the defendant's unsolicited electronic mail advertisements would use or cause to be used the electronic mail service provider's equipment located in this state.

(B) In this regard, the Legislature finds that with rapid advances in Internet technology, and electronic mail technology in particular, Internet service providers are already experimenting with embedding policy statements directly into the software running on the computers used to provide electronic mail services in a manner that displays the policy statements every time an electronic mail delivery is requested. While the state of the technology does not support this finding at present, the Legislature believes that, in a given case at some future date, a showing that notice was supplied via electronic means between the sending and receiving computers could be held to constitute actual notice to the sender for purposes of this paragraph.

(4) (A) An electronic mail service provider who has brought an action against a party for a violation under Section 17529.8 shall not bring an action against that party under this section for the same unsolicited commercial electronic mail advertisement.

(B) An electronic mail service provider who has brought an action against a party for a violation of this section shall not bring an action against that party under Section 17529.8 for the same unsolicited commercial electronic mail advertisement.

SEC. 16. Section 17550.30 of the Business and Professions Code is amended to read:

17550.30. (a) The Travel Seller Fund is hereby created in the State Treasury. All fines, penalties, and fees, including late fees, collected pursuant to this article, and any moneys collected for a violation of this article or Article 2.7 (commencing with Section 17550.35), shall be deposited in the fund, and the moneys in the fund may be expended only for the purposes specified in this article.

(b) All moneys paid into the State Treasury and credited to the Travel Seller Fund shall be used by the Department of Justice in carrying out and enforcing the provisions of this article, including, but not limited to, the payment of salaries of Department of Justice personnel, contractors, or consultants, and the dissemination of information, including consumer education regarding this article and Article 2.7 (commencing with Section 17550.35).

(c) The sum of three hundred ninety-five thousand dollars (\$395,000) is hereby appropriated from the Travel Seller Fund to the Department of Justice for purposes of the Sellers of Travel Program established pursuant to Article 2.6 (commencing with Section 17550).

SEC. 17. Section 17593 of the Business and Professions Code is amended to read:

17593. (a) The Attorney General, a district attorney, or a city attorney may bring a civil action in any court of competent jurisdiction against a telephone solicitor to enforce the article and to obtain any one or more of the following remedies:

(1) An order to enjoin the violation.

(2) A civil penalty of up to the penalty amount that the Federal Trade Commission may seek pursuant to subparagraph (A) of paragraph (1) of subsection (m) of Section 45 of Title 15 of the United States Code as specified in Section 1.98 of Title 16 of the Code of Federal Regulations.

(3) Any other relief that the court deems proper.

(b) Any person who has received a telephone solicitation that is prohibited by Section 17592, or whose telephone number was used in violation of Section 17591, may bring a civil action in small claims court for an injunction or order to prevent further violations. If a person obtains an injunction or order under this subdivision and service of the injunction or order is properly effected, a person who thereafter receives further solicitations in violation of the injunction or order within 30 days after service of the initial injunction or order, may file a subsequent action in small claims court seeking enforcement of the injunction or order and a civil penalty to be awarded to the person in an amount up to one thousand dollars (\$1,000). For purposes of this subdivision, a person's claims may not be aggregated to establish jurisdiction in a court other than small claims court. For purposes of this subdivision, a defendant is not required to personally appear, but may appear by affidavit or by written instrument.

(c) The rights, remedies, and penalties established by this article are in addition to the rights, remedies, or penalties established under other laws.

(d) It shall be an affirmative defense to any action brought under this article that the violation was accidental and in violation of the telephone solicitor's policies and procedures and telemarketer instruction and training.

SEC. 18. Section 18824 of the Business and Professions Code, as amended by Section 2 of Chapter 515 of the Statutes of 2003, is amended to read:

18824. (a) Except as provided in Sections 18646 and 18832, every person who conducts a contest or wrestling exhibition shall, within 72 hours after the determination of every contest or wrestling exhibition for which admission is charged and received, furnish to the commission a written report executed under penalty of perjury by one of the officers, showing the amount of the gross receipts, not to exceed two million dollars (\$2,000,000), and the gross price for the contest or wrestling exhibition charged directly or indirectly and no matter by whom received, for the sale, lease, or other exploitation of broadcasting and

television rights of the contest or wrestling exhibition, and without any deductions, except for expenses incurred for one broadcast announcer, telephone line connection, and transmission mobile equipment facility, which may be deducted from the gross taxable base when those expenses are approved by the commission. The person shall also, within the same time, pay to the commission a fee of 5 percent, exclusive of any federal taxes paid thereon, of the amount paid for admission to the contest or wrestling exhibition, except that for any one boxing contest, the fee shall not exceed the amount of one hundred thousand dollars (\$100,000), and a fee of up to 5 percent of the gross price as described above for the sale, lease, or other exploitation of broadcasting or television rights thereof, except that in no case shall the fee be less than one thousand dollars (\$1,000). The minimum fee for an amateur contest or exhibition shall not be less than five hundred dollars (\$500). The amount of the gross receipts upon which the fee provided for in this section is calculated shall not include any assessments levied by the commission under Section 18711.

The fee on admission shall apply to the amount actually paid for admission and not to the regular established price.

No fee is due in the case of a person admitted free of charge. However, if the total number of persons admitted free of charge to a boxing, kickboxing, or martial arts contest or wrestling exhibition exceeds 25 percent of the total number of spectators, then a fee of one dollar (\$1) per complimentary ticket or pass used to gain admission to the contest shall be paid to the commission for each complimentary ticket or pass that exceeds the numerical total of 25 percent of the total number of spectators.

(b) If the fee on admissions for any one boxing contest exceeds seventy thousand dollars (\$70,000), the amount in excess of seventy thousand dollars (\$70,000) shall be paid one-half to the commission and one-half to the Boxers' Pension Fund.

(c) As used in this section, "person" includes a promoter, club, individual, corporation, partnership, association, or other organization, and "wrestling exhibition" means a performance of wrestling skills and techniques by two or more individuals, to which admission is charged or which is broadcast or televised, in which the participating individuals are not required to use their best efforts in order to win, and for which the winner may have been selected before the performance commences.

(d) This section shall remain in effect only until January 1, 2006, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2006, deletes or extends that date.

SEC. 19. Section 18824 of the Business and Professions Code, as added by Section 3 of Chapter 515 of the Statutes of 2003, is amended to read:

18824. (a) Except as provided in Sections 18646 and 18832, every person who conducts a contest or wrestling exhibition shall, within 72 hours after the determination of every contest or wrestling exhibition for which admission is charged and received, furnish to the commission a written report executed under penalty of perjury by one of the officers, showing the amount of the gross receipts for the contest or wrestling exhibition, and the gross price charged directly or indirectly and no matter by whom received, for the sale, lease, or other exploitation of broadcasting and television rights of the contest or wrestling exhibition, and without any deductions, except for expenses incurred for one broadcast announcer, telephone line connection, and transmission mobile equipment facility, which may be deducted from the gross taxable base when those expenses are approved by the commission. The person shall also, within the same time pay to the commission a 5-percent fee, exclusive of any federal taxes paid thereon, of the amount paid for admission to the contest or wrestling exhibition, and up to 5 percent of the gross price as described above for the sale, lease, or other exploitation of broadcasting or television rights thereof, except that in no case shall the fee be less than one thousand dollars (\$1,000).

(b) The minimum fee for an amateur contest or exhibition shall not be less than five hundred dollars (\$500). The amount of the gross receipts upon which the fee provided for in this section is calculated shall not include any assessments levied by the commission under Section 18711.

The fee on admission shall apply to the amount actually paid for admission and not to the regular established price.

No fee is due in the case of a person admitted free of charge, except if the total number of persons admitted free of charge to a boxing, kickboxing, or martial arts contest or wrestling exhibition exceeds 25 percent of the total number of spectators, then a fee of one dollar (\$1) per complimentary ticket or pass used to gain admission to the contest shall be paid to the commission for each complimentary ticket or pass that exceeds the numerical total of 25 percent of the total number of spectators.

(c) As used in this section, "person" includes a promoter, club, individual, corporation, partnership, association, or other organization, and "wrestling exhibition" means a performance of wrestling skills and techniques by two or more individuals, to which admission is charged or which is broadcast or televised, in which the participating individuals are not required to use their best efforts in order to win, and for which the winner may have been selected before the performance commences.

(d) This section shall become operative on January 1, 2006.

SEC. 20. Section 18897.73 of the Business and Professions Code is amended to read:

18897.73. Every agent contract, endorsement contract, or professional sports services contract entered into by a student athlete shall contain, in close proximity to the signature of the student athlete, a notice in at least 10-point boldface type stating:

“WARNING TO THE STUDENT ATHLETE: WHEN YOU SIGN THIS CONTRACT, YOU LIKELY WILL IMMEDIATELY AND PERMANENTLY LOSE YOUR ELIGIBILITY TO COMPETE IN INTERSCHOLASTIC OR INTERCOLLEGIATE SPORTS. YOU MUST GIVE THE PRINCIPAL, PRESIDENT, OR OTHER CHIEF ADMINISTRATOR OF YOUR EDUCATIONAL INSTITUTION WRITTEN NOTICE THAT YOU HAVE ENTERED INTO THIS CONTRACT WITHIN 72 HOURS, OR BEFORE YOU PRACTICE FOR OR PARTICIPATE IN ANY INTERSCHOLASTIC OR INTERCOLLEGIATE SPORTS EVENT, WHICHEVER OCCURS FIRST. DO NOT SIGN THIS CONTRACT UNTIL YOU HAVE READ IT AND FILLED IN ANY BLANK SPACES. YOU MAY CANCEL THIS CONTRACT BY NOTIFYING THE ATHLETE AGENT, OR OTHER PARTY TO THIS CONTRACT, IN WRITING OF YOUR DESIRE TO CANCEL NOT LATER THAN THE 15TH DAY AFTER THE DATE YOU SIGN THIS CONTRACT. HOWEVER, EVEN IF YOU CANCEL THIS CONTRACT, THE FEDERATION OR ASSOCIATION TO WHICH YOUR EDUCATIONAL INSTITUTION BELONGS MAY NOT RESTORE YOUR ELIGIBILITY.”

SEC. 21. Section 22575 of the Business and Professions Code is amended to read:

22575. (a) An operator of a commercial Web site or online service that collects personally identifiable information through the Internet about individual consumers residing in California who use or visit its commercial Web site or online service shall conspicuously post its privacy policy on its Web site, or in the case of an operator of an online service, make that policy available in accordance with paragraph (5) of subdivision (b) of Section 22577. An operator shall be in violation of this subdivision only if the operator fails to post its policy within 30 days after being notified of noncompliance.

(b) The privacy policy required by subdivision (a) shall do all of the following:

(1) Identify the categories of personally identifiable information that the operator collects through the Web site or online service about individual consumers who use or visit its commercial Web site or online service and the categories of third-party persons or entities with whom the operator may share that personally identifiable information.

(2) If the operator maintains a process for an individual consumer who uses or visits its commercial Web site or online service to review and request changes to any of his or her personally identifiable information that is collected through the Web site or online service, provide a description of that process.

(3) Describe the process by which the operator notifies consumers who use or visit its commercial Web site or online service of material changes to the operator's privacy policy for that Web site or online service.

(4) Identify its effective date.

SEC. 22. Section 25503.4 of the Business and Professions Code is amended to read:

25503.4. (a) Notwithstanding any other provision of this division, a winegrower, California winegrower's agent, wine importer, or any director, partner, officer, agent, or representative of that person, may conduct or participate in, and serve wine at, an instructional event for consumers held at a retailer's premises featuring wines produced by or for the winegrower or, imported by the wine importer, subject to the following conditions:

(1) No premium, gift, free goods, or other thing of value may be given away in connection with the instructional event by the winegrower, California winegrower's agent, wine importer, or retailer, except as authorized by this division.

(2) No alcoholic beverages may be given away in connection with the instructional event except that wine, taken from barrels or from tanks, may be sampled at the instructional event. For the purposes of this section, minimal amounts of the samples provided for tasting at the instructional event in addition to the wines being featured do not constitute a thing of value.

(3) No alcoholic beverages may be sold at the instructional event, except that orders for the sale of wine may be accepted by the winegrower if the sales transaction is completed at the winegrower's premises.

(b) Notwithstanding any other provision of this division, a winegrower, California winegrower's agent, or wine importer, in advance of an instructional event for consumers being held at a retailer's premises, may list in an advertisement the name and address of the retailer, the names of the wines being featured at the instructional event, and the time, date, and location of, and other information about, the instructional event, provided:

(1) The advertisement does not also contain the retail price of the wines.

(2) The listing of the retailer's name and address is the only reference to the retailer in the advertisement and is relatively inconspicuous in

relation to the advertisement as a whole. Pictures or illustrations of the retailer's premises and laudatory references to the retailer in these advertisements are not hereby authorized.

(c) Notwithstanding any other provision of this division, the name and address of a winegrower, wine importer, or winegrower's agent licensee, the brand names of wine being featured, and the time, date, location, and other identifying information of a wine promotional lecture at retail premises may be listed in advance of the event in an advertisement of the off-sale or on-sale retail licensee.

(d) Nothing in this section authorizes a winegrower, wine importer, or winegrower's agent licensee to share in the costs, if any, of the retailer licensee's advertisement.

(e) Nothing in this section authorizes any person to consume any alcoholic beverage on any premises licensed with an off-sale retail license.

SEC. 23. Section 51.10 of the Civil Code is amended to read:

51.10. (a) Section 51 shall be construed to prohibit a business establishment from discriminating in the sale or rental of housing based upon age. A business establishment may establish and preserve housing for senior citizens, pursuant to Section 51.11, except housing as to which Section 51.11 is preempted by the prohibition in the federal Fair Housing Amendments Act of 1988 (P.L. 100-430) and implementing regulations against discrimination on the basis of familial status.

(b) This section is intended to clarify the holdings in *Marina Point, Ltd. v. Wolfson* (1982) 30 Cal.3d 721, and *O'Connor v. Village Green Owners Association* (1983) 33 Cal.3d 790.

(c) This section shall only apply to the County of Riverside.

SEC. 24. Section 56.26 of the Civil Code is amended to read:

56.26. (a) No person or entity engaged in the business of furnishing administrative services to programs that provide payment for health care services shall knowingly use, disclose, or permit its employees or agents to use or disclose medical information possessed in connection with performing administrative functions for a program, except as reasonably necessary in connection with the administration or maintenance of the program, or as required by law, or with an authorization.

(b) An authorization required by this section shall be in the same form as described in Section 56.21, except that "third party administrator" shall be substituted for "employer" wherever it appears in Section 56.21.

(c) This section shall not apply to any person or entity that is subject to the Insurance Information Privacy Act or to Chapter 2 (commencing with Section 56.10) or Chapter 3 (commencing with Section 56.20).

SEC. 25. Section 800.100 of the Civil Code is amended to read:

800.100. (a) When the owner of a floating home marina enters into a written listing agreement with a licensed real estate broker, as defined in Article 1 (commencing with Section 10130) of Chapter 2 of Part 1 of Division 4 of the Business and Professions Code, for the sale of the marina or offers to sell the marina to any party, the owner shall provide written notice by first-class mail or by personal delivery to the president, secretary, and treasurer of the resident organization, not less than 30 days but no more than one year prior to entering into any written listing agreement for the sale of the marina, or making any offer to sell the marina to any party. An offer to sell a marina shall not be construed as an offer under this subdivision unless it is initiated by the marina owner or his or her agent.

(b) An owner of a floating home marina is not required to comply with subdivision (a) unless the following conditions are met:

(1) The resident organization has first furnished the marina owner or marina manager a written notice of the name and address of the president, secretary, and treasurer of the resident organization to whom the notice of sale shall be given.

(2) The resident organization has first notified the marina owner or manager in writing that the marina residents are interested in purchasing the marina. The initial notice by the resident organization shall be made prior to a written listing or offer to sell the marina by the marina owner, and the resident organization shall give subsequent notice once each year thereafter that the marina residents are interested in purchasing the marina.

(3) The resident organization has furnished the marina owner or marina manager a written notice, within five days, of any change in the name or address of the officers of the resident organization to whom the notice of sale shall be given.

(c) Nothing in this section affects the validity of title to real property transferred in violation of this section, although a violation shall subject the seller to civil action pursuant to Article 9 (commencing with Section 800.200) by homeowner residents of the marina or by the resident organization.

(d) Nothing in this section affects the ability of a licensed real estate broker to collect a commission pursuant to an executed contract between the broker and the floating home marina owner.

(e) This section does not apply to any of the following:

(1) Any sale or other transfer by a marina owner who is a natural person to any relation specified in Section 6401 or 6402 of the Probate Code.

(2) Any transfer by gift, devise, or operation of law.

(3) Any transfer by a corporation to an affiliate. As used in this paragraph, "affiliate" means any shareholder of the transferring

corporation, any corporation or entity owned or controlled, directly or indirectly, by the transferring corporation, or any other corporation or entity controlled, directly or indirectly, by any shareholder of the transferring corporation.

(4) Any transfer by a partnership to any of its partners.

(5) Any conveyance resulting from the judicial or nonjudicial foreclosure of a mortgage or deed of trust encumbering a floating home marina or any deed given in lieu of such a foreclosure.

(6) Any sale or transfer between or among joint tenants or tenants in common owning a floating home marina.

(7) The purchase of a floating home marina by a governmental entity under its powers of eminent domain.

SEC. 26. Section 1102.16 of the Civil Code is amended to read:

1102.16. The disclosure of the existence of any window security bars and any safety release mechanism on those window security bars shall be made pursuant to Section 1102.6 or 1102.6a of the Civil Code.

SEC. 27. Section 1103 of the Civil Code is amended to read:

1103. (a) Except as provided in Section 1103.1, this article applies to the transfer by sale, exchange, installment land sale contract, as defined in Section 2985, lease with an option to purchase, any other option to purchase, or ground lease coupled with improvements, of any real property described in subdivision (c), or residential stock cooperative, improved with or consisting of not less than one nor more than four dwelling units.

(b) Except as provided in Section 1103.1, this article shall apply to a resale transaction entered into on or after January 1, 2000, for a manufactured home, as defined in Section 18007 of the Health and Safety Code, that is classified as personal property intended for use as a residence, or a mobilehome, as defined in Section 18008 of the Health and Safety Code, that is classified as personal property intended for use as a residence, if the real property on which the manufactured home or mobilehome is located is real property described in subdivision (c).

(c) This article shall apply to the transactions described in subdivisions (a) and (b) only if the transferor or his or her agent is required by one or more of the following to disclose the property's location within a hazard zone:

(1) A person who is acting as an agent for a transferor of real property that is located within a special flood hazard area (any type Zone "A" or "V") designated by the Federal Emergency Management Agency, or the transferor if he or she is acting without an agent, shall disclose to any prospective transferee the fact that the property is located within a special flood hazard area if either:

(A) The transferor, or the transferor's agent, has actual knowledge that the property is within a special flood hazard area.

(B) The local jurisdiction has compiled a list, by parcel, of properties that are within the special flood hazard area and a notice has been posted at the offices of the county recorder, county assessor, and county planning agency that identifies the location of the parcel list.

(2) A person who is acting as an agent for a transferor of real property that is located within an area of potential flooding designated pursuant to Section 8589.5 of the Government Code, or the transferor if he or she is acting without an agent, shall disclose to any prospective transferee the fact that the property is located within an area of potential flooding if either:

(A) The transferor, or the transferor's agent, has actual knowledge that the property is within an inundation area.

(B) The local jurisdiction has compiled a list, by parcel, of properties that are within the inundation area and a notice has been posted at the offices of the county recorder, county assessor, and county planning agency that identifies the location of the parcel list.

(3) A transferor of real property that is located within a very high fire hazard severity zone, designated pursuant to Section 51178 of the Government Code, shall disclose to any prospective transferee the fact that the property is located within a very high fire hazard severity zone and is subject to the requirements of Section 51182 of the Government Code if either:

(A) The transferor, or the transferor's agent, has actual knowledge that the property is within a very high fire hazard severity zone.

(B) A map that includes the property has been provided to the local agency pursuant to Section 51178 of the Government Code and a notice has been posted at the offices of the county recorder, county assessor, and county planning agency that identifies the location of the map and any information regarding changes to the map received by the local agency.

(4) A person who is acting as an agent for a transferor of real property that is located within an earthquake fault zone, designated pursuant to Section 2622 of the Public Resources Code, or the transferor if he or she is acting without an agent, shall disclose to any prospective transferee the fact that the property is located within a delineated earthquake fault zone if either:

(A) The transferor, or the transferor's agent, has actual knowledge that the property is within a delineated earthquake fault zone.

(B) A map that includes the property has been provided to the city or county pursuant to Section 2622 of the Public Resources Code and a notice has been posted at the offices of the county recorder, county assessor, and county planning agency that identifies the location of the map and any information regarding changes to the map received by the county.

(5) A person who is acting as an agent for a transferor of real property that is located within a seismic hazard zone, designated pursuant to Section 2696 of the Public Resources Code, or the transferor if he or she is acting without an agent, shall disclose to any prospective transferee the fact that the property is located within a seismic hazard zone if either:

(A) The transferor, or the transferor's agent, has actual knowledge that the property is within a seismic hazard zone.

(B) A map that includes the property has been provided to the city or county pursuant to Section 2696 of the Public Resources Code and a notice has been posted at the offices of the county recorder, county assessor, and county planning agency that identifies the location of the map and any information regarding changes to the map received by the county.

(6) A transferor of real property that is located within a state responsibility area determined by the board, pursuant to Section 4125 of the Public Resources Code, shall disclose to any prospective transferee the fact that the property is located within a wildland area that may contain substantial forest fire risks and hazards and is subject to the requirements of Section 4291 if either:

(A) The transferor, or the transferor's agent, has actual knowledge that the property is within a wildland fire zone.

(B) A map that includes the property has been provided to the city or county pursuant to Section 4125 of the Public Resources Code and a notice has been posted at the offices of the county recorder, county assessor, and county planning agency that identifies the location of the map and any information regarding changes to the map received by the county.

(d) Any waiver of the requirements of this article is void as against public policy.

SEC. 28. Section 1542 of the Civil Code is amended to read:

1542. A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

SEC. 29. Section 1747.8 of the Civil Code is amended and renumbered to read:

1747.08. (a) Except as provided in subdivision (c), no person, firm, partnership, association, or corporation which accepts credit cards for the transaction of business shall do either of the following:

(1) Request, or require as a condition to accepting the credit card as payment in full or in part for goods or services, the cardholder to write any personal identification information upon the credit card transaction form or otherwise.

(2) Request, or require as a condition to accepting the credit card as payment in full or in part for goods or services, the cardholder to provide personal identification information, which the person, firm, partnership, association, or corporation accepting the credit card writes, causes to be written, or otherwise records upon the credit card transaction form or otherwise.

(3) Utilize, in any credit card transaction, a credit card form which contains preprinted spaces specifically designated for filling in any personal identification information of the cardholder.

(b) For purposes of this section “personal identification information,” means information concerning the cardholder, other than information set forth on the credit card, and including, but not limited to, the cardholder’s address and telephone number.

(c) Subdivision (a) does not apply in the following instances:

(1) If the credit card is being used as a deposit to secure payment in the event of default, loss, damage, or other similar occurrence.

(2) Cash advance transactions.

(3) If the person, firm, partnership, association, or corporation accepting the credit card is contractually obligated to provide personal identification information in order to complete the credit card transaction or is obligated to collect and record the personal identification information by federal law or regulation.

(4) If personal identification information is required for a special purpose incidental but related to the individual credit card transaction, including, but not limited to, information relating to shipping, delivery, servicing, or installation of the purchased merchandise, or for special orders.

(d) This section does not prohibit any person, firm, partnership, association, or corporation from requiring the cardholder, as a condition to accepting the credit card as payment in full or in part for goods or services, to provide reasonable forms of positive identification, which may include a driver’s license or a California state identification card, or where one of these is not available, another form of photo identification, provided that none of the information contained thereon is written or recorded on the credit card transaction form or otherwise. If the cardholder pays for the transaction with a credit card number and does not make the credit card available upon request to verify the number, the cardholder’s driver’s license number or identification card number may be recorded on the credit card transaction form or otherwise.

(e) Any person who violates this section shall be subject to a civil penalty not to exceed two hundred fifty dollars (\$250) for the first violation and one thousand dollars (\$1,000) for each subsequent violation, to be assessed and collected in a civil action brought by the

person paying with a credit card, by the Attorney General, or by the district attorney or city attorney of the county or city in which the violation occurred. However, no civil penalty shall be assessed for a violation of this section if the defendant shows by a preponderance of the evidence that the violation was not intentional and resulted from a bona fide error made notwithstanding the defendant's maintenance of procedures reasonably adopted to avoid that error. When collected, the civil penalty shall be payable, as appropriate, to the person paying with a credit card who brought the action, or to the general fund of whichever governmental entity brought the action to assess the civil penalty.

(f) The Attorney General, or any district attorney or city attorney within his or her respective jurisdiction, may bring an action in the superior court in the name of the people of the State of California to enjoin violation of subdivision (a) and, upon notice to the defendant of not less than five days, to temporarily restrain and enjoin the violation. If it appears to the satisfaction of the court that the defendant has, in fact, violated subdivision (a), the court may issue an injunction restraining further violations, without requiring proof that any person has been damaged by the violation. In these proceedings, if the court finds that the defendant has violated subdivision (a), the court may direct the defendant to pay any or all costs incurred by the Attorney General, district attorney, or city attorney in seeking or obtaining injunctive relief pursuant to this subdivision.

(g) Actions for collection of civil penalties under subdivision (e) and for injunctive relief under subdivision (f) may be consolidated.

(h) The changes made to this section by Assembly Bill 1316 of the 1995–96 Regular Session of the Legislature apply only to credit card transactions entered into on and after January 1, 1996. Nothing in those changes shall be construed to affect any civil action which was filed before January 1, 1996.

SEC. 30. Section 1747.9 of the Civil Code is amended and renumbered to read:

1747.09. (a) Except as provided in this section, no person, firm, partnership, association, corporation, or limited liability company that accepts credit cards for the transaction of business shall print more than the last five digits of the credit card account number or the expiration date upon any receipt provided to the cardholder.

(b) This section shall apply only to receipts that are electronically printed and shall not apply to transactions in which the sole means of recording the person's credit card number is by handwriting or by an imprint or copy of the credit card.

(c) This section shall become operative on January 1, 2004, with respect to any cash register or other machine or device that electronically

prints receipts for credit card transactions that is in use before January 1, 2001.

(d) This section shall become operative on January 1, 2001, with respect to any cash register or other machine or device that electronically prints receipts for credit card transactions that is first put into use on or after January 1, 2001.

SEC. 31. Section 1785.30 of the Civil Code is amended to read:

1785.30. Upon notification of the results of a consumer credit reporting agency's reinvestigation pursuant to Section 1785.16, a consumer may make a written demand on any person furnishing information to the consumer credit reporting agency to correct any information that the consumer believes to be inaccurate. The person upon whom the written demand is made shall acknowledge the demand within 30 days. The consumer may require the consumer credit reporting agency to indicate on any subsequent reports issued during the dispute that the item or items of information are in dispute. If upon investigation the information is found to be inaccurate or incorrect, the consumer may require the consumer credit reporting agency to delete or correct the item or items of information within a reasonable time. If within 90 days the consumer credit reporting agency does not receive any information from the person requested to furnish the same or any communication relative to this information from this person, the consumer credit reporting agency shall delete the information from the report.

SEC. 32. Section 1786.24 of the Civil Code is amended to read:

1786.24. (a) If the completeness or accuracy of any item of information contained in his or her file is disputed by a consumer, and the dispute is conveyed directly to the investigative consumer reporting agency by the consumer, the investigative consumer reporting agency shall, without charge, reinvestigate and record the current status of the disputed information or delete the item from the file in accordance with subdivision (c), before the end of the 30-day period beginning on the date on which the agency receives the notice of the dispute from the consumer.

(b) The agency shall notify any person who provided information in dispute at the address and in the manner specified by that person. The notice shall include all relevant information regarding the dispute that the investigative consumer reporting agency has received from the consumer. The agency shall also promptly provide to the person who provided the information in dispute all relevant information regarding the dispute that is received by the agency from the consumer during the reinvestigation.

(c) In conducting a reinvestigation, the investigative consumer reporting agency shall review and consider all relevant information

submitted by the consumer with respect to the disputed item of information.

(d) Notwithstanding subdivision (a), an investigative consumer reporting agency may terminate a reinvestigation of information disputed by a consumer if the investigative consumer reporting agency reasonably determines that the dispute is frivolous or irrelevant, including by reason of a failure by a consumer to provide sufficient information to investigate the disputed information. Upon making a determination that a dispute is frivolous or irrelevant, the investigative consumer reporting agency shall notify the consumer, by mail or, if authorized by the consumer for that purpose, by any other means available to the agency. In this notification, the investigative consumer reporting agency shall state the specific reasons why it has determined that the consumer's dispute is frivolous or irrelevant and provide a description of any information required to investigate the disputed information, that may consist of a standardized form describing the general nature of the required information.

(e) If a reinvestigation is made and, after reinvestigation, the disputed item of information is found to be inaccurate, incomplete, or cannot be verified by the evidence submitted, the investigative consumer reporting agency shall promptly delete that information from the consumer's file or modify the information, as appropriate, based on the results of the reinvestigation, and shall notify the consumer that the information has been deleted or modified. The consumer reporting agency shall also notify any and all sources from which the disputed information was obtained and inform them in writing of the reasons and results of the reinvestigation, and send a copy of this notification to the consumer. In accordance with subdivision (b) of Section 1786.10, the copy of the notification sent to the consumer need not reveal the identity of the source of information, unless otherwise required by law.

(f) No information may be reinserted in the file of a consumer after having been deleted pursuant to this section, unless the person who furnished the information verifies that the information is complete and accurate. If any information deleted from the file of a consumer is reinserted in the file, the investigative consumer reporting agency shall promptly notify the consumer of the reinsertion in writing or, if authorized by the consumer for that purpose, by any other means available to the agency. As part of, or in addition to, this notice, the investigative consumer reporting agency shall provide to the consumer in writing (1) a statement that the disputed information has been reinserted, (2) the name, address, and telephone number of any furnisher of information contacted or that contacted the investigative consumer reporting agency in connection with the reinsertion, and the telephone number of the furnisher, if reasonably available, and (3) a notice that the

consumer has the right to a reinvestigation of the information reinserted by the investigative consumer reporting agency and to add a statement to his or her file disputing the accuracy or completeness of the information.

(g) An investigative consumer reporting agency shall provide notice to the consumer of the results of any reinvestigation under this section by mail or, if authorized by the consumer for that purpose, by other means available to the agency. The notice shall include (1) a statement that the reinvestigation is completed, (2) an investigative consumer report that is based on the consumer's file as that file is revised as a result of the reinvestigation, (3) a description or indication of any changes made in the investigative consumer report as a result of those revisions to the consumer's file, (4) a notice that, if requested by the consumer, a description of the procedure used to determine the accuracy and completeness of the information shall be provided to the consumer by the investigative consumer reporting agency, including the name, business address, and telephone number of any furnisher of information contacted in connection with that information, (5) a notice that the consumer has the right to add a statement to the consumer's file disputing the accuracy or completeness of the information, and (6) a notice that the consumer has the right to request that the investigative consumer reporting agency furnish notifications under subdivision (k).

(h) The presence of information in the consumer's file that contradicts the contention of the consumer shall not, in and of itself, constitute reasonable grounds for believing the dispute is frivolous or irrelevant.

(i) If the investigative consumer reporting agency determines that the dispute is frivolous or irrelevant, or if the reinvestigation does not resolve the dispute, or if the information is reinserted into the file of a consumer pursuant to subdivision (f), the consumer may file a brief statement setting forth the nature of the dispute. The investigative consumer reporting agency may limit these statements to not more than 500 words if it provides the consumer with assistance in writing a clear summary of the dispute.

(j) If a statement of dispute is filed, the investigative consumer reporting agency shall, in any subsequent investigative consumer report containing the information in question, clearly note that the information is disputed by the consumer and shall include in the report either the statement of the consumer or a clear and accurate summary thereof.

(k) Following the deletion of information from the file of a consumer pursuant to this section, or following the filing of a dispute pursuant to subdivision (i), the investigative consumer reporting agency shall, at the request of the consumer, furnish notification that the item of information has been deleted or that the item of information is disputed. In the case

of disputed information, the notification shall include the statement or summary of the dispute filed pursuant to subdivision (i). This notification shall be furnished to any person who has, within two years prior to the deletion or the filing of the dispute, received an investigative consumer report concerning the consumer for employment purposes, or who has, within one year of the deletion or the filing of the dispute, received an investigative consumer report concerning the consumer for any other purpose, if these investigative consumer reports contained the deleted or disputed information, unless the consumer specifically requests in writing that this notification not be given to all persons or to any specified persons. The investigative consumer reporting agency shall clearly and conspicuously disclose to the consumer his or her rights to make a request that this notification not be made.

(l) An investigative consumer reporting agency shall maintain reasonable procedures designed to prevent the reappearance in the file of a consumer and in investigative consumer reports information that has been deleted pursuant to this section and not reinserted pursuant to subdivision (f).

(m) If the dispute of a consumer is resolved by deletion of the disputed information within three business days, beginning with the day the investigative consumer reporting agency receives notice of the dispute in accordance with subdivision (a), the investigative consumer reporting agency is exempt from requirements for further action under subdivisions (g), (i), and (j), if the agency: (1) provides prompt notice of the deletion to the consumer by telephone, (2) provides written confirmation of the deletion and a copy of an investigative consumer report of the consumer that is based on the file of a consumer after the deletion, and (3) includes, in the telephone notice or in a written notice that accompanies the confirmation and report, a statement of the consumer's right to request under subdivision (k) that the agency not furnish notifications under that subdivision.

(n) Any investigative consumer reporting agency that compiles and maintains files on consumers on a nationwide basis, as defined in the federal Fair Credit Reporting Act, as amended (15 U.S.C. Sec. 1681 et seq.), shall implement an automated system through which furnishers of information to that agency may report the results of a reinvestigation that finds incomplete or inaccurate information in the file of a consumer to other investigative consumer reporting agencies.

(o) All actions to be taken by an investigative consumer reporting agency under this section are governed by the applicable time periods specified in Section 611 of the federal Fair Credit Reporting Act, as amended (15 U.S.C. Sec. 1681i).

SEC. 33. Section 1789.21 of the Civil Code is amended to read:

1789.21. (a) Any buyer injured by a violation of this title or by the credit services organization's breach of a contract subject to this title may bring any action for recovery of damages, or for injunctive relief, or both. Judgment shall be entered for actual damages, but in no case less than the amount paid by the buyer to the credit services organization, plus reasonable attorney's fees and costs. An award, if the trial court deems it proper, may be entered for punitive damages.

(b) Any person, including, but not limited to, a consumer credit reporting agency, as defined in subdivision (d) of Section 1785.3, and any consumer of, or user of, a consumer credit report under the Consumer Credit Reporting Agencies Act (Title 1.6 (commencing with Section 1785.1)), and any furnisher of credit information under the Consumer Credit Reporting Agencies Act, may bring an action for the recovery of damages or for injunctive relief, or both, for a violation of this title. Any person bringing such an action who prevails in the action shall be entitled to reasonable attorney's fees and costs.

SEC. 34. Section 1798.83 of the Civil Code is amended to read:

1798.83. (a) Except as otherwise provided in subdivision (d), if a business has an established business relationship with a customer and has within the immediately preceding calendar year disclosed personal information that corresponds to any of the categories of personal information set forth in paragraph (6) of subdivision (e) to third parties, and if the business knows or reasonably should know that the third parties used the personal information for the third parties' direct marketing purposes, that business shall, after the receipt of a written or electronic mail request, or, if the business chooses to receive requests by toll-free telephone or facsimile numbers, a telephone or facsimile request from the customer, provide all of the following information to the customer free of charge:

(1) In writing or by electronic mail, a list of the categories set forth in paragraph (6) of subdivision (e) that correspond to the personal information disclosed by the business to third parties for the third parties' direct marketing purposes during the immediately preceding calendar year.

(2) In writing or by electronic mail, the names and addresses of all of the third parties that received personal information from the business for the third parties' direct marketing purposes during the preceding calendar year and, if the nature of the third parties' business cannot reasonably be determined from the third parties' name, examples of the products or services marketed, if known to the business, sufficient to give the customer a reasonable indication of the nature of the third parties' business.

(b) (1) A business required to comply with this section shall designate a mailing address, electronic mail address, or, if the business

chooses to receive requests by telephone or facsimile, a toll-free telephone or facsimile number, to which customers may deliver requests pursuant to subdivision (a). A business required to comply with this section shall, at its election, do at least one of the following:

(A) Notify all agents and managers who directly supervise employees who regularly have contact with customers of the designated addresses or numbers or the means to obtain those addresses or numbers and instruct those employees that customers who inquire about the business' privacy practices or the business' compliance with this section shall be informed of the designated addresses or numbers or the means to obtain the addresses or numbers.

(B) Add to the home page of its Web site, a link either to a page titled "Your Privacy Rights" or to add the words "Your Privacy Rights," to the home page's link to the business' privacy policy. If the business elects to add the words "Your Privacy Rights" to the link to the business' privacy policy, the words "Your Privacy Rights" shall be in the same style and size of the link to the business' privacy policy. If the business does not display a link to its privacy policy on the home page of its Web site, or does not have a privacy policy, the words "Your Privacy Rights" shall be written in larger type than the surrounding text, or in contrasting type, font, or color to the surrounding text of the same size, or set off from the surrounding text of the same size by symbols or other marks that call attention to the language. The first page of the link shall describe a customer's rights pursuant to this section and shall provide the designated mailing address, e-mail address, as required, or toll-free telephone number or facsimile number, as appropriate. If the business elects to add the words "Your California Privacy Rights" to the home page's link to the business' privacy policy in a manner that complies with this subdivision, and the first page of the link describes a customer's rights pursuant to this section, and provides the designated mailing address, electronic mailing address, as required, or toll-free telephone or facsimile number, as appropriate, the business need not respond to requests that are not received at one of the designated addresses or numbers.

(C) Make the designated addresses or numbers, or means to obtain the designated addresses or numbers, readily available upon request of a customer at every place of business in California where the business or its agents regularly have contact with customers.

The response to a request pursuant to this section received at one of the designated addresses or numbers shall be provided within 30 days. Requests received by the business at other than one of the designated addresses or numbers shall be provided within a reasonable period, in light of the circumstances related to how the request was received, but not to exceed 150 days from the date received.

(2) A business that is required to comply with this section and Section 6803 of Title 15 of the United States Code may comply with this section by providing the customer the disclosure required by Section 6803 of Title 15 of the United States Code, but only if the disclosure also complies with this section.

(3) A business that is required to comply with this section is not obligated to provide information associated with specific individuals and may provide the information required by this section in standardized format.

(c) (1) A business that is required to comply with this section is not obligated to do so in response to a request from a customer more than once during the course of any calendar year. A business with fewer than 20 full-time or part-time employees is exempt from the requirements of this section.

(2) If a business that is required to comply with this section adopts and discloses to the public, in its privacy policy, a policy of not disclosing personal information of customers to third parties for the third parties' direct marketing purposes unless the customer first affirmatively agrees to that disclosure, or of not disclosing the personal information of customers to third parties for the third parties' direct marketing purposes if the customer has exercised an option that prevents that information from being disclosed to third parties for those purposes, as long as the business maintains and discloses the policies, the business may comply with subdivision (a) by notifying the customer of his or her right to prevent disclosure of personal information, and providing the customer with a cost-free means to exercise that right.

(d) The following are among the disclosures not deemed to be disclosures of personal information by a business for a third parties' direct marketing purposes for purposes of this section:

(1) Disclosures between a business and a third party pursuant to contracts or arrangements pertaining to any of the following:

(A) The processing, storage, management, or organization of personal information, or the performance of services on behalf of the business during which personal information is disclosed, if the third party that processes, stores, manages, or organizes the personal information does not use the information for a third party's direct marketing purposes and does not disclose the information to additional third parties for their direct marketing purposes.

(B) Marketing products or services to customers with whom the business has an established business relationship where, as a part of the marketing, the business does not disclose personal information to third parties for the third parties' direct marketing purposes.

(C) Maintaining or servicing accounts, including credit accounts and disclosures pertaining to the denial of applications for credit or the status

of applications for credit and processing bills or insurance claims for payment.

(D) Public record information relating to the right, title, or interest in real property or information relating to property characteristics, as defined in Section 408.3 of the Revenue and Taxation Code, obtained from a governmental agency or entity or from a multiple listing service, as defined in Section 1087, and not provided directly by the customer to a business in the course of an established business relationship.

(E) Jointly offering a product or service pursuant to a written agreement with the third party that receives the personal information, provided that all of the following requirements are met:

(i) The product or service offered is a product or service of, and is provided by, at least one of the businesses that is a party to the written agreement.

(ii) The product or service is jointly offered, endorsed, or sponsored by, and clearly and conspicuously identifies for the customer, the businesses that disclose and receive the disclosed personal information.

(iii) The written agreement provides that the third party that receives the personal information is required to maintain the confidentiality of the information and is prohibited from disclosing or using the information other than to carry out the joint offering or servicing of a product or service that is the subject of the written agreement.

(2) Disclosures to or from a consumer reporting agency of a customer's payment history or other information pertaining to transactions or experiences between the business and a customer if that information is to be reported in, or used to generate, a consumer report as defined in subdivision (d) of Section 1681a of Title 15 of the United States Code, and use of that information is limited by the federal Fair Credit Reporting Act (15 U.S.C. Sec. 1681 et seq.).

(3) Disclosures of personal information by a business to a third party financial institution solely for the purpose of the business obtaining payment for a transaction in which the customer paid the business for goods or services with a check, credit card, charge card, or debit card, if the customer seeks the information required by subdivision (a) from the business obtaining payment, whether or not the business obtaining payment knows or reasonably should know that the third party financial institution has used the personal information for its direct marketing purposes.

(4) Disclosures of personal information between a licensed agent and its principal, if the personal information disclosed is necessary to complete, effectuate, administer, or enforce transactions between the principal and the agent, whether or not the licensed agent or principal also uses the personal information for direct marketing purposes, if that personal information is used by each of them solely to market products

and services directly to customers with whom both have established business relationships as a result of the principal and agent relationship.

(5) Disclosures of personal information between a financial institution and a business that has a private label credit card, affinity card, retail installment contract, or cobranded card program with the financial institution, if the personal information disclosed is necessary for the financial institution to maintain or service accounts on behalf of the business with which it has a private label credit card, affinity card, retail installment contract, or branded card program, or to complete, effectuate, administer, or enforce customer transactions or transactions between the institution and the business, whether or not the institution or the business also uses the personal information for direct marketing purposes, if that personal information is used solely to market products and services directly to customers with whom both the business and the financial institution have established business relationships as a result of the private label credit card, affinity card, retail installment contract, or cobranded card program.

(e) For purposes of this section:

(1) "Customer" means an individual who is a resident of California who provides personal information to a business during the creation of, or throughout the duration of, an established business relationship if the business relationship is primarily for personal, family, or household purposes.

(2) "Direct marketing purposes" means the use of personal information to solicit or induce a purchase, rental, lease, or exchange of products, goods, property, or services directly to individuals by means of the mail, telephone, or electronic mail for their personal, family, or household purposes. The sale, rental, exchange, or lease of personal information for consideration to businesses is a direct marketing purpose of the business that sells, rents, exchanges, or obtains consideration for the personal information. "Direct marketing purposes" does not include the use of personal information (A) by bona fide tax exempt charitable or religious organizations to solicit charitable contributions, (B) to raise funds from and communicate with individuals regarding politics and government, (C) by a third party when the third party receives personal information solely as a consequence of having obtained for consideration permanent ownership of accounts that might contain personal information, or (D) by a third party when the third party receives personal information solely as a consequence of a single transaction where, as a part of the transaction, personal information had to be disclosed in order to effectuate the transaction.

(3) "Disclose" means to disclose, release, transfer, disseminate, or otherwise communicate orally, in writing, or by electronic or any other means to any third party.

(4) “Employees who regularly have contact with customers” means employees whose contact with customers is not incidental to their primary employment duties, and whose duties do not predominantly involve ensuring the safety or health of the businesses customers. It includes, but is not limited to, employees whose primary employment duties are as cashier, clerk, customer service, sales, or promotion. It does not, by way of example, include employees whose primary employment duties consist of food or beverage preparation or service, maintenance and repair of the business’ facilities or equipment, direct involvement in the operation of a motor vehicle, aircraft, watercraft, amusement ride, heavy machinery or similar equipment, security, or participation in a theatrical, literary, musical, artistic, or athletic performance or contest.

(5) “Established business relationship” means a relationship formed by a voluntary, two-way communication between a business and a customer, with or without an exchange of consideration, for the purpose of purchasing, renting, or leasing real or personal property, or any interest therein, or obtaining a product or service from the business, if the relationship is ongoing and has not been expressly terminated by the business or the customer, or if the relationship is not ongoing, but is solely established by the purchase, rental, or lease of real or personal property from a business, or the purchase of a product or service, no more than 18 months have elapsed from the date of the purchase, rental, or lease.

(6) (A) The categories of personal information required to be disclosed pursuant to paragraph (1) of subdivision (a) are all of the following:

- (i) Name and address.
- (ii) Electronic mail address.
- (iii) Age or date of birth.
- (iv) Names of children.
- (v) Electronic mail or other addresses of children.
- (vi) Number of children.
- (vii) The age or gender of children.
- (viii) Height.
- (ix) Weight.
- (x) Race.
- (xi) Religion.
- (xii) Occupation.
- (xiii) Telephone number.
- (xiv) Education.
- (xv) Political party affiliation.
- (xvi) Medical condition.
- (xvii) Drugs, therapies, or medical products or equipment used.
- (xviii) The kind of product the customer purchased, leased, or rented.

- (xix) Real property purchased, leased, or rented.
- (xx) The kind of service provided.
- (xxi) Social security number.
- (xxii) Bank account number.
- (xxiii) Credit card number.
- (xxiv) Debit card number.
- (xxv) Bank or investment account, debit card, or credit card balance.
- (xxvi) Payment history.
- (xxvii) Information pertaining to the customer's creditworthiness, assets, income, or liabilities.

(B) If a list, description, or grouping of customer names or addresses is derived using any of these categories, and is disclosed to a third party for direct marketing purposes in a manner that permits the third party to identify, determine, or extrapolate any other personal information from which the list was derived, and that personal information when it was disclosed identified, described, or was associated with an individual, the categories set forth in this subdivision that correspond to the personal information used to derive the list, description, or grouping shall be considered personal information for purposes of this section.

(7) "Personal information" as used in this section means any information that when it was disclosed identified, described, or was able to be associated with an individual and includes all of the following:

- (A) An individual's name and address.
- (B) Electronic mail address.
- (C) Age or date of birth.
- (D) Names of children.
- (E) Electronic mail or other addresses of children.
- (F) Number of children.
- (G) The age or gender of children.
- (H) Height.
- (I) Weight.
- (J) Race.
- (K) Religion.
- (L) Occupation.
- (M) Telephone number.
- (N) Education.
- (O) Political party affiliation.
- (P) Medical condition.
- (Q) Drugs, therapies, or medical products or equipment used.
- (R) The kind of product the customer purchased, leased, or rented.
- (S) Real property purchased, leased, or rented.
- (T) The kind of service provided.
- (U) Social security number.
- (V) Bank account number.

- (W) Credit card number.
- (X) Debit card number.
- (Y) Bank or investment account, debit card, or credit card balance.
- (Z) Payment history.
- (AA) Information pertaining to creditworthiness, assets, income, or liabilities.

(8) “Third party” or “third parties” means one or more of the following:

(A) A business that is a separate legal entity from the business that has an established business relationship with a customer.

(B) A business that has access to a database that is shared among businesses, if the business is authorized to use the database for direct marketing purposes, unless the use of the database is exempt from being considered a disclosure for direct marketing purposes pursuant to subdivision (d).

(C) A business not affiliated by a common ownership or common corporate control with the business required to comply with subdivision (a).

(f) (1) Disclosures of personal information for direct marketing purposes between affiliated third parties that share the same brand name are exempt from the requirements of paragraph (1) of subdivision (a) unless the personal information disclosed corresponds to one of the following categories, in which case the customer shall be informed of those categories listed in this subdivision that correspond to the categories of personal information disclosed for direct marketing purposes and the third party recipients of personal information disclosed for direct marketing purposes pursuant to paragraph (2) of subdivision (a):

- (A) Number of children.
- (B) The age or gender of children.
- (C) Electronic mail or other addresses of children.
- (D) Height.
- (E) Weight.
- (F) Race.
- (G) Religion.
- (H) Telephone number.
- (I) Medical condition.
- (J) Drugs, therapies, or medical products or equipment used.
- (K) Social security number.
- (L) Bank account number.
- (M) Credit card number.
- (N) Debit card number.
- (O) Bank or investment account, debit card, or credit card balance.

(2) If a list, description, or grouping of customer names or addresses is derived using any of these categories, and is disclosed to a third party or third parties sharing the same brand name for direct marketing purposes in a manner that permits the third party to identify, determine, or extrapolate the personal information from which the list was derived, and that personal information when it was disclosed identified, described, or was associated with an individual, any other personal information that corresponds to the categories set forth in this subdivision used to derive the list, description, or grouping shall be considered personal information for purposes of this section.

(3) If a business discloses personal information for direct marketing purposes to affiliated third parties that share the same brand name, the business that discloses personal information for direct marketing purposes between affiliated third parties that share the same brand name may comply with the requirements of paragraph (2) of subdivision (a) by providing the overall number of affiliated companies that share the same brand name.

(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.

(h) This section does not apply to a financial institution that is subject to the California Financial Information Privacy Act (Division 1.2 (commencing with Section 4050) of the Financial Code) if the financial institution is in compliance with Sections 4052, 4052.5, 4053, 4053.5 and 4054.6 of the Financial Code, as those sections read when they were chaptered on August 28, 2003, and as subsequently amended by the Legislature or by initiative.

(i) This section shall become operative on January 1, 2005.

SEC. 35. Section 1798.85 of the Civil Code is amended to read:

1798.85. (a) Except as provided in subdivisions (b), (h), and (i), a person or entity may not do any of the following:

(1) Publicly post or publicly display in any manner an individual's social security number. "Publicly post" or "publicly display" means to intentionally communicate or otherwise make available to the general public.

(2) Print an individual's social security number on any card required for the individual to access products or services provided by the person or entity.

(3) Require an individual to transmit his or her social security number over the Internet, unless the connection is secure or the social security number is encrypted.

(4) Require an individual to use his or her social security number to access an Internet Web site, unless a password or unique personal

identification number or other authentication device is also required to access the Internet Web site.

(5) Print an individual's social security number on any materials that are mailed to the individual, unless state or federal law requires the social security number to be on the document to be mailed. Notwithstanding this paragraph, social security numbers may be included in applications and forms sent by mail, including documents sent as part of an application or enrollment process, or to establish, amend, or terminate an account, contract, or policy, or to confirm the accuracy of the social security number. A social security number that is permitted to be mailed under this section may not be printed, in whole or in part, on a postcard or other mailer not requiring an envelope, or visible on the envelope or without the envelope having been opened.

(b) Except as provided in subdivision (e), a person or entity that has used, prior to July 1, 2002, an individual's social security number in a manner inconsistent with subdivision (a), may continue using that individual's social security number in that manner on or after July 1, 2002, and a state or local agency that has used, prior to January 1, 2004, an individual's social security number in a manner inconsistent with subdivision (a), may continue using that individual's social security number in that manner on or after January 1, 2004, if all of the following conditions are met:

(1) The use of the social security number is continuous. If the use is stopped for any reason, subdivision (a) shall apply.

(2) The individual is provided an annual disclosure, that informs the individual that he or she has the right to stop the use of his or her social security number in a manner prohibited by subdivision (a).

(3) A written request by an individual to stop the use of his or her social security number in a manner prohibited by subdivision (a) is implemented within 30 days of the receipt of the request. There may not be a fee or charge for implementing the request.

(4) The person or entity does not deny services to an individual because the individual makes a written request pursuant to this subdivision.

(c) This section does not prevent the collection, use, or release of a social security number as required by state or federal law or the use of a social security number for internal verification or administrative purposes.

(d) This section does not apply to documents that are recorded or required to be open to the public pursuant to Chapter 3.5 (commencing with Section 6250), Chapter 14 (commencing with Section 7150), or Chapter 14.5 (commencing with Section 7220) of Division 7 of Title 1 of, Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of, or Chapter 9 (commencing with Section 54950)

of Part 1 of Division 2 of Title 5 of, the Government Code. This section does not apply to records that are required by statute, case law, or California Rule of Court, to be made available to the public by entities provided for in Article VI of the California Constitution.

(e) (1) In the case of a health care service plan, a provider of health care, an insurer or a pharmacy benefits manager, a contractor as defined in Section 56.05, or the provision by any person or entity of administrative or other services relative to health care or insurance products or services, including third-party administration or administrative services only, this section shall become operative in the following manner:

(A) On or before January 1, 2003, the entities listed in paragraph (1) of subdivision (e) shall comply with paragraphs (1), (3), (4), and (5) of subdivision (a) as these requirements pertain to individual policyholders or individual contractholders.

(B) On or before January 1, 2004, the entities listed in paragraph (1) shall comply with paragraphs (1) to (5), inclusive, of subdivision (a) as these requirements pertain to new individual policyholders or new individual contractholders and new groups, including new groups administered or issued on or after January 1, 2004.

(C) On or before July 1, 2004, the entities listed in paragraph (1) shall comply with paragraphs (1) to (5), inclusive, of subdivision (a) for all individual policyholders and individual contractholders, for all groups, and for all enrollees of the Healthy Families and Medi-Cal programs, except that for individual policyholders, individual contractholders, and groups in existence prior to January 1, 2004, the entities listed in paragraph (1) shall comply upon the renewal date of the policy, contract, or group on or after July 1, 2004, but no later than July 1, 2005.

(2) A health care service plan, a provider of health care, an insurer or a pharmacy benefits manager, a contractor, or another person or entity as described in paragraph (1) shall make reasonable efforts to cooperate, through systems testing and other means, to ensure that the requirements of this article are implemented on or before the dates specified in this section.

(3) Notwithstanding paragraph (2), the Director of the Department of Managed Health Care, pursuant to the authority granted under Section 1346 of the Health and Safety Code, or the Insurance Commissioner, pursuant to the authority granted under Section 12921 of the Insurance Code, and upon a determination of good cause, may grant extensions not to exceed six months for compliance by health care service plans and insurers with the requirements of this section when requested by the health care service plan or insurer. Any extension granted shall apply to the health care service plan or insurer's affected providers, pharmacy benefits manager, and contractors.

(f) If a federal law takes effect requiring the United States Department of Health and Human Services to establish a national unique patient health identifier program, a provider of health care, a health care service plan, a licensed health care professional, or a contractor, as those terms are defined in Section 56.05, that complies with the federal law shall be deemed in compliance with this section.

(g) A person or entity may not encode or embed a social security number in or on a card or document, including, but not limited to, using a bar code, chip, magnetic strip, or other technology, in place of removing the social security number, as required by this section.

(h) This section shall become operative, with respect to the University of California, in the following manner:

(1) On or before January 1, 2004, the University of California shall comply with paragraphs (1), (2), and (3) of subdivision (a).

(2) On or before January 1, 2005, the University of California shall comply with paragraphs (4) and (5) of subdivision (a).

(i) This section shall become operative with respect to the Franchise Tax Board on January 1, 2007.

(j) This section shall become operative with respect to the California Community College districts on January 1, 2007.

(k) This section shall become operative with respect to the California State University system on July 1, 2005.

(l) This section shall become operative, with respect to the California Student Aid Commission and its auxiliary organization, in the following manner:

(1) On or before January 1, 2004, the commission and its auxiliary organization shall comply with paragraphs (1), (2), and (3) of subdivision (a).

(2) On or before January 1, 2005, the commission and its auxiliary organization shall comply with paragraphs (4) and (5) of subdivision (a).

SEC. 36. Section 1799.1b of the Civil Code is amended to read:

1799.1b. (a) Any credit card issuer that receives a change of address request, other than for a correction of a typographical error, from a cardholder who orders a replacement credit card within 60 days before or after that request is received shall send to that cardholder a change of address notification that is addressed to the cardholder at the cardholder's previous address of record. If the replacement credit card is requested prior to the effective date of the change of address, the notification shall be sent within 30 days of the change of address request. If the replacement credit card is requested after the effective date of the change of address, the notification shall be sent within 30 days of the request for the replacement credit card.

(b) Any business entity that provides telephone accounts that receives a change of address request, other than for a correction of a typographical

error, from an accountholder who orders new service, shall send to that accountholder a change of address notification that is addressed to the accountholder at the accountholder's previous address of record. The notification shall be sent within 30 days of the request for new service.

(c) The notice required pursuant to subdivision (a) or (b) may be given by telephone or e-mail communication if the credit card issuer or business entity that provides telephone accounts reasonably believes that it has the current telephone number or e-mail address for the accountholder or cardholder who has requested a change of address. If the notification is in writing it may not contain the consumer's account number, social security number, or other personal identifying information, but may contain the consumer's name, previous address, and new address of record. For business entities described in subdivision (b), the notification may also contain the accountholder's telephone number.

(d) A credit card issuer or a business entity that provides telephone accounts is not required to send a change of address notification when a change of address request is made in person by a consumer who has presented valid identification, or is made by telephone and the requester has provided a unique alpha-numeric password.

(e) The following definitions shall apply to this section:

(1) "Credit account" has the same meaning as "credit card," as defined in subdivision (a) of Section 1747.02.

(2) "Telephone account" means an account with a telephone corporation, as defined in Section 234 of the Public Utilities Code.

SEC. 37. Section 1812.701 of the Civil Code is amended to read:

1812.701. (a) The notice required in this title may be changed only as necessary to reflect changes under the federal Fair Debt Collection Practices Act (15 U.S.C. Sec. 1692 et seq.) that would otherwise make the disclosure inaccurate.

(b) The type-size used in the disclosure shall be at least the same type-size as that used to inform the debtor of his or her specific debt, but is not required to be larger than 12-point type.

SEC. 38. Section 1865 of the Civil Code is amended to read:

1865. (a) For purposes of this section, "hotel" means any hotel, motel, bed and breakfast inn, or other similar transient lodging establishment, but it shall not include any residential hotel as defined in Section 50519 of the Health and Safety Code. "Innkeeper" means the owner or operator of a hotel, or the duly authorized agent or employee of the owner or operator.

(b) For purposes of this section, "guest" means, and is specifically limited to, an occupant of a hotel whose occupancy is exempt, pursuant to subdivision (b) of Section 1940, from Chapter 2 (commencing with Section 1940) of Title 5 of Part 4 of Division 3.

(c) In addition to, and not in derogation of, any other provision of law, every innkeeper shall have the right to evict a guest in the manner specified in this subdivision if the guest refuses or otherwise fails to fully depart the guest room at or before the innkeeper's posted checkout time on the date agreed to by the guest, but only if both of the following conditions are met:

(1) If the guest is provided written notice, at the time that he or she was received and provided accommodations by the innkeeper, that the innkeeper needs that guest's room to accommodate an arriving person with a contractual right thereto, and that if the guest fails to fully depart at the time agreed to the innkeeper may enter the guest's guest room, take possession of the guest's property, re-key the door to the guest room, and make the guest room available to a new guest. The written notice shall be signed by the guest.

(2) At the time that the innkeeper actually undertakes to evict the guest as specified in this subdivision, the innkeeper in fact has a contractual obligation to provide the guest room to an arriving person.

In the above cases, the innkeeper may enter the guest's guest room, take possession of the guest's property, re-key the door to the guest room, and make the guest room available to a new guest. The evicted guest shall be entitled to immediate possession of his or her property upon request therefor, subject to the rights of the innkeeper pursuant to Sections 1861 to 1861.28, inclusive.

(d) As pertains to a minor, the rights of an innkeeper include, but are not limited to, the following:

(1) Where a minor unaccompanied by an adult seeks accommodations, the innkeeper may require a parent or guardian of the minor, or another responsible adult, to assume, in writing, full liability for any and all proper charges and other obligations incurred by the minor for accommodations, food and beverages, and other services provided by or through the innkeeper, as well as for any and all injuries or damage caused by the minor to any person or property.

(2) Where a minor is accompanied by an adult, the innkeeper may require the adult to agree, in writing, not to leave any minor 12 years of age or younger unattended on the innkeeper's premises at any time during their stay, and to control the minor's behavior during their stay so as to preserve the peace and quiet of the innkeeper's other guests and to prevent any injury to any person and damage to any property.

SEC. 39. Section 2945.3 of the Civil Code is amended to read:

2945.3. (a) Every contract shall be in writing and shall fully disclose the exact nature of the foreclosure consultant's services and the total amount and terms of compensation.

(b) The following notice, printed in at least 14-point boldface type and completed with the name of the foreclosure consultant, shall be printed immediately above the statement required by subdivision (c):

“NOTICE REQUIRED BY CALIFORNIA LAW

_____ or anyone working
(Name)
for him or her CANNOT:

(1) Take any money from you or ask you for money
until _____ has
(Name)

completely finished doing everything he or she said he or she would do; and

(2) Ask you to sign or have you sign any lien, deed of trust, or deed.”

(c) The contract shall be written in the same language as principally used by the foreclosure consultant to describe his or her services or to negotiate the contract; shall be dated and signed by the owner; and shall contain in immediate proximity to the space reserved for the owner’s signature a conspicuous statement in a size equal to at least 10-point boldface type, as follows: “You, the owner, may cancel this transaction at any time prior to midnight of the third business day after the date of this transaction. See the attached notice of cancellation form for an explanation of this right.”

(d) The contract shall contain on the first page, in a type size no smaller than that generally used in the body of the document, each of the following:

(1) The name and address of the foreclosure consultant to which the notice of cancellation is to be mailed.

(2) The date the owner signed the contract.

(e) The contract shall be accompanied by a completed form in duplicate, captioned “notice of cancellation,” which shall be attached to the contract, shall be easily detachable, and shall contain in type of at least 10-point the following statement written in the same language as used in the contract:

“NOTICE OF CANCELLATION

_____ (Date)

(Enter date of transaction)

You may cancel this transaction, without any penalty or obligation, within three business days from the above date.

To cancel this transaction, mail or deliver a signed and dated copy of this cancellation notice, or any other written notice, or send a telegram to

(Name of foreclosure consultant)

at

(Address of foreclosure consultant's place of business)

NOT LATER THAN MIDNIGHT OF _____.

(Date)

I hereby cancel this transaction _____.

(Date)

_____”

(Owner's signature)

(f) The foreclosure consultant shall provide the owner with a copy of the contract and the attached notice of cancellation.

(g) Until the foreclosure consultant has complied with this section, the owner may cancel the contract.

SEC. 40. Section 2982 of the Civil Code is amended to read:

2982. Every conditional sale contract subject to this chapter shall contain the disclosures required by Regulation Z, whether or not Regulation Z applies to the transaction. In addition, to the extent applicable, the contract shall contain the other disclosures and notices required by, and shall satisfy the requirements and limitations of, this section. The disclosures required by subdivision (a) may be itemized or subtotaled to a greater extent than as required by that subdivision and shall be made together and in the sequence set forth in that subdivision. All other disclosures and notices may appear in the contract in any location or sequence and may be combined or interspersed with other provisions of the contract.

(a) The contract shall contain the following disclosures, as applicable, which shall be labeled “itemization of the amount financed”:

(1) (A) The cash price, exclusive of document preparation fees, taxes imposed on the sale, pollution control certification fees, prior credit or lease balance on property being traded in, and the amount charged for a service contract.

(B) The fee to be retained by the seller for document preparation.

(C) The fee charged by the seller for certifying that the motor vehicle complies with applicable pollution control requirements.

(D) Taxes imposed on the sale.

(E) The amount of any optional business partnership automation fee to register or transfer the vehicle, which shall be labeled “Optional DMV Electronic Filing Fee.”

(F) The amount charged for a service contract.

(G) The prior credit or lease balance remaining on property being traded in, as required by paragraph (6). The disclosure required by this subparagraph shall be labeled “prior credit or lease balance (see downpayment and trade-in calculation).”

(H) Any charge for an optional debt cancellation agreement.

(I) The total cash price, which is the sum of subparagraphs (A) to (H), inclusive.

(2) Amounts paid to public officials for the following:

(A) Vehicle license fees.

(B) Registration, transfer, and titling fees.

(C) California tire fees imposed pursuant to Section 42885 of the Public Resources Code.

(3) The aggregate amount of premiums agreed, upon execution of the contract, to be paid for policies of insurance included in the contract, excluding the amount of any insurance premium included in the finance charge.

(4) The amount of the state fee for issuance of a certificate of compliance, noncompliance, exemption, or waiver pursuant to any applicable pollution control statute.

(5) A subtotal representing the sum of the foregoing items.

(6) The amount of the buyer’s downpayment itemized to show the following:

(A) The agreed value of the property being traded in.

(B) The prior credit or lease balance, if any, owing on the property being traded in.

(C) The net agreed value of the property being traded in, which is the difference between the amounts disclosed in subparagraphs (A) and (B). If the prior credit or lease balance of the property being traded in exceeds the agreed value of the property, a negative number shall be stated.

(D) The amount of any portion of the downpayment to be deferred until not later than the due date of the second regularly scheduled installment under the contract and which is not subject to a finance charge.

(E) The amount of any manufacturer’s rebate applied or to be applied to the downpayment.

(F) The remaining amount paid or to be paid by the buyer as a downpayment.

(G) The total downpayment. If the sum of subparagraphs (C) to (F), inclusive, is zero or more, that sum shall be stated as the total downpayment and no amount shall be stated as the prior credit or lease balance under subparagraph (G) of paragraph (1). If the sum of subparagraphs (C) to (F), inclusive, is less than zero, then that sum, expressed as a positive number, shall be stated as the prior credit or lease

balance under subparagraph (G) of paragraph (1), and zero shall be stated as the total downpayment. The disclosure required by this subparagraph shall be labeled "total downpayment" and shall contain a descriptor indicating that if the total downpayment is a negative number, a zero shall be disclosed as the total downpayment and a reference made that the remainder shall be included in the disclosure required pursuant to subparagraph (G) of paragraph (1).

(7) The amount of any administrative finance charge, labeled "prepaid finance charge."

(8) The difference between item (5) and the sum of items (6) and (7), labeled "amount financed."

(b) No particular terminology is required to disclose the items set forth in subdivision (a) except as expressly provided in that subdivision.

(c) If payment of all or a portion of the downpayment is to be deferred, the deferred payment shall be reflected in the payment schedule disclosed pursuant to Regulation Z.

(d) If the downpayment includes property being traded in, the contract shall contain a brief description of that property.

(e) The contract shall contain the names and addresses of all persons to whom the notice required under Section 2983.2 and permitted under Sections 2983.5 and 2984 is to be sent.

(f) (1) If the contract includes a finance charge determined on the precomputed basis, the contract shall identify the method of computing the unearned portion of the finance charge in the event of prepayment in full of the buyer's obligation and contain a statement of the amount or method of computation of any charge that may be deducted from the amount of any unearned finance charge in computing the amount that will be credited to the obligation or refunded to the buyer. The method of computing the unearned portion of the finance charge shall be sufficiently identified with a reference to the actuarial method if the computation will be under that method. The method of computing the unearned portion of the finance charge shall be sufficiently identified with a reference to the Rule of 78's, the sum of the digits, or the sum of the periodic time balances method in all other cases, and those references shall be deemed to be equivalent for disclosure purposes.

(2) If the contract includes a finance charge which is determined on the simple-interest basis but provides for a minimum finance charge in the event of prepayment in full, the contract shall contain a statement of that fact and the amount of the minimum finance charge or its method of calculation.

(g) (1) If the contract includes a finance charge which is determined on the precomputed basis and provides that the unearned portion of the finance charge to be refunded upon full prepayment of the contract is to be determined by a method other than actuarial, the contract shall contain

a notice, in at least 10-point boldface type if the contract is printed, reading as follows: “Notice to buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement. (3) You can prepay the full amount due under this agreement at any time and obtain a partial refund of the finance charge if it is \$1 or more. Because of the way the amount of this refund will be figured, the time when you prepay could increase the ultimate cost of credit under this agreement. (4) If you default in the performance of your obligations under this agreement, the vehicle may be repossessed and you may be subject to suit and liability for the unpaid indebtedness evidenced by this agreement.”

(2) If the contract includes a finance charge which is determined on the precomputed basis and provides for the actuarial method for computing the unearned portion of the finance charge upon prepayment in full, the contract shall contain a notice, in at least 10-point boldface type if the contract is printed, reading as follows: “Notice to buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement. (3) You can prepay the full amount due under this agreement at any time and obtain a partial refund of the finance charge if it is \$1 or more. (4) If you default in the performance of your obligations under this agreement, the vehicle may be repossessed and you may be subject to suit and liability for the unpaid indebtedness evidenced by this agreement.”

(3) If the contract includes a finance charge which is determined on the simple-interest basis, the contract shall contain a notice, in at least 10-point boldface type if the contract is printed, reading as follows: “Notice to buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement. (3) You can prepay the full amount due under this agreement at any time. (4) If you default in the performance of your obligations under this agreement, the vehicle may be repossessed and you may be subject to suit and liability for the unpaid indebtedness evidenced by this agreement.”

(h) The contract shall contain a notice in at least 8-point boldface type, acknowledged by the buyer, that reads as follows:

“If you have a complaint concerning this sale, you should try to resolve it with the seller.

Complaints concerning unfair or deceptive practices or methods by the seller may be referred to the city attorney, the district attorney, or an investigator for the Department of Motor Vehicles, or any combination thereof.

After this contract is signed, the seller may not change the financing or payment terms unless you agree in writing to the change. You do not have to agree to any change, and it is an unfair or deceptive practice for the seller to make a unilateral change.

Buyer's Signature"

(i) (1) The contract shall contain an itemization of any insurance included as part of the amount financed disclosed pursuant to paragraph (3) of subdivision (a) and of any insurance included as part of the finance charge. The itemization shall identify the type of insurance coverage and the premium charged therefor, and, if the insurance expires before the date of the last scheduled installment included in the repayment schedule, the term of the insurance shall be stated.

(2) If any charge for insurance, other than for credit life or disability, is included in the contract balance and disbursement of any part thereof is to be made more than one year after the date of the conditional sale contract, any finance charge on the amount to be disbursed after one year shall be computed from the month the disbursement is to be made to the due date of the last installment under the conditional sale contract.

(j) (1) Except for contracts in which the finance charge or portion thereof is determined by the simple-interest basis and the amount financed disclosed pursuant to paragraph (8) of subdivision (a) is more than two thousand five hundred dollars (\$2,500), the dollar amount of the disclosed finance charge may not exceed the greater of:

(A) (i) One and one-half percent on so much of the unpaid balance as does not exceed two hundred twenty-five dollars (\$225), $1\frac{1}{6}$ percent on so much of the unpaid balance in excess of two hundred twenty-five dollars (\$225) as does not exceed nine hundred dollars (\$900) and five-sixths of 1 percent on so much of the unpaid balance in excess of nine hundred dollars (\$900) as does not exceed two thousand five hundred dollars (\$2,500); or

(ii) One percent of the entire unpaid balance; multiplied in either case by the number of months (computed on the basis of a full month for any fractional month period in excess of 15 days) elapsing between the date of the contract and the due date of the last installment; or

(B) If the finance charge is determined by the precomputed basis, twenty-five dollars (\$25); or

(C) If the finance charge or a portion thereof is determined by the simple-interest basis:

(i) Twenty-five dollars (\$25) if the unpaid balance does not exceed one thousand dollars (\$1,000).

(ii) Fifty dollars (\$50) if the unpaid balance exceeds one thousand dollars (\$1,000) but does not exceed two thousand dollars (\$2,000).

(iii) Seventy-five dollars (\$75) if the unpaid balance exceeds two thousand dollars (\$2,000).

(2) The holder of the contract may not charge, collect, or receive a finance charge which exceeds the disclosed finance charge, except to the extent (A) caused by the holder's receipt of one or more payments under a contract which provides for determination of the finance charge or a portion thereof on the 365-day basis at a time or times other than as originally scheduled whether or not the parties enter into an agreement pursuant to Section 2982.3, (B) permitted by paragraph (2), (3), or (4) of subdivision (c) of Section 226.17 of Regulation Z, or (C) permitted by subdivisions (a) and (c) of Section 2982.8.

(3) If the finance charge or a portion thereof is determined by the simple-interest basis and the amount of the unpaid balance exceeds five thousand dollars (\$5,000), the holder of the contract may, in lieu of its right to a minimum finance charge under subparagraph (C) of paragraph (1), charge, receive, or collect on the date of the contract an administrative finance charge not to exceed seventy-five dollars (\$75), provided that the sum of the administrative finance charge and the portion of the finance charge determined by the simple-interest basis shall not exceed the maximum total finance charge permitted by subparagraph (A) of paragraph (1). Any administrative finance charge that is charged, received, or collected by a holder shall be deemed a finance charge earned on the date of the contract.

(4) If a contract provides for unequal or irregular payments, or payments on other than a monthly basis, the maximum finance charge shall be at the effective rate provided for in paragraph (1), having due regard for the schedule of installments.

(k) The contract may provide that for each installment in default for a period of not less than 10 days the buyer shall pay a delinquency charge in an amount not to exceed in the aggregate 5 percent of the delinquent installment, which amount may be collected only once on any installment regardless of the period during which it remains in default. Payments timely received by the seller under an extension or deferral agreement may not be subject to a delinquency charge unless the charge is permitted by Section 2982.3. The contract may provide for reasonable collection costs and fees in the event of delinquency.

(l) Notwithstanding any provision of a contract to the contrary, the buyer may pay at any time before maturity the entire indebtedness evidenced by the contract without penalty. In the event of prepayment in full:

(1) If the finance charge was determined on the precomputed basis, the amount required to prepay the contract shall be the outstanding

contract balance as of that date, provided, however, that the buyer shall be entitled to a refund credit in the amount of the unearned portion of the finance charge, except as provided in paragraphs (3) and (4). The amount of the unearned portion of the finance charge shall be at least as great a proportion of the finance charge, including any additional finance charge imposed pursuant to Section 2982.8 or other additional charge imposed because the contract has been extended, deferred, or refinanced, as the sum of the periodic monthly time balances payable more than 15 days after the date of prepayment bears to the sum of all the periodic monthly time balances under the schedule of installments in the contract or, if the contract has been extended, deferred, or refinanced, as so extended, deferred, or refinanced. If the amount of the refund credit is less than one dollar (\$1), no refund credit need be made by the holder. Any refund credit may be made in cash or credited to the outstanding obligations of the buyer under the contract.

(2) If the finance charge or a portion thereof was determined on the simple-interest basis, the amount required to prepay the contract shall be the outstanding contract balance as of that date, including any earned finance charges which are unpaid as of that date and, if applicable, the amount provided in paragraph (3), and provided further that in cases where a finance charge is determined on the 360-day basis, the payments theretofore received will be assumed to have been received on their respective due dates regardless of the actual dates on which the payments were received.

(3) Where the minimum finance charge provided by subparagraph (B) or subparagraph (C) of paragraph (1) of subdivision (j), if either is applicable, is greater than the earned finance charge as of the date of prepayment, the holder shall be additionally entitled to the difference.

(4) The provisions of this subdivision may not impair the right of the seller or the seller's assignee to receive delinquency charges on delinquent installments and reasonable costs and fees as provided in subdivision (k) or extension or deferral agreement charges as provided in Section 2982.3.

(5) Notwithstanding any provision of a contract to the contrary, whenever the indebtedness created by any contract is satisfied prior to its maturity through surrender of the motor vehicle, repossession of the motor vehicle, redemption of the motor vehicle after repossession, or any judgment, the outstanding obligation of the buyer shall be determined as provided in paragraph (1) or (2). Notwithstanding, the buyer's outstanding obligation shall be computed by the holder as of the date the holder recovers the value of the motor vehicle through disposition thereof or judgment is entered or, if the holder elects to keep the motor vehicle in satisfaction of the buyer's indebtedness, as of the date the holder takes possession of the motor vehicle.

(m) Notwithstanding any other provision of this chapter to the contrary, any information required to be disclosed in a conditional sale contract under this chapter may be disclosed in any manner, method, or terminology required or permitted under Regulation Z, as in effect at the time that disclosure is made, except that permitted by paragraph (2) of subdivision (c) of Section 226.18 of Regulation Z, provided that all of the requirements and limitations set forth in subdivision (a) of this section are satisfied. This chapter does not prohibit the disclosure in that contract of additional information required or permitted under Regulation Z, as in effect at the time that disclosure is made.

(n) If the seller imposes a fee for document preparation, the contract shall contain a disclosure that the fee is not a governmental fee.

(o) A seller may not impose an application fee for a transaction governed by this chapter.

(p) The seller or holder may charge and collect a fee not to exceed fifteen dollars (\$15) for the return by a depository institution of a dishonored check, negotiated order of withdrawal, or share draft issued in connection with the contract, if the contract so provides or if the contract contains a generalized statement that the buyer may be liable for collection costs incurred in connection with the contract.

(q) The contract shall disclose on its face, by printing the word “new” or “used” within a box outlined in red, that is not smaller than one-half inch high and one-half inch wide, whether the vehicle is sold as a new vehicle, as defined in Section 430 of the Vehicle Code, or a used vehicle, as defined in Section 665 of the Vehicle Code.

(r) The contract shall contain a notice with a heading in at least 12-point bold type and the text in at least 10-point bold type, circumscribed by a line, immediately above the contract signature line, that reads as follows:

THERE IS NO COOLING OFF PERIOD

California law does not provide for a “cooling off” or other cancellation period for vehicle sales. Therefore, you cannot later cancel this contract simply because you change your mind, decide the vehicle costs too much, or wish you had acquired a different vehicle. After you sign below, you may only cancel this contract with the agreement of the seller or for legal cause, such as fraud.

SEC. 41. Section 2985.8 of the Civil Code is amended to read:
2985.8. (a) Every lease contract shall be in writing and the print portion of the contract shall be printed in at least 8-point type and shall

contain in a single document all of the agreements of the lessor and lessee with respect to the obligations of each party.

(b) At the top of the lease contract, a title which contains the words "LEASE CONTRACT" or "LEASE AGREEMENT" shall appear in at least 12-point boldface type.

(c) Every lease contract shall disclose all of the following:

(1) All of the information prescribed by Regulation M set forth in the manner required or permitted by Regulation M, whether or not Regulation M applies to the transaction.

(2) A separate statement labeled "Itemization of Gross Capitalized Cost" that shall appear immediately following or directly adjacent to the disclosures required to be segregated by Regulation M. The Itemization of Gross Capitalized Cost shall include all of the following and shall be circumscribed by a line:

(A) The agreed-upon value of the vehicle as equipped at the time of signing the lease.

(B) The agreed-upon value and a description of each accessory and item of optional equipment the lessor agrees to add to the vehicle after signing the lease.

(C) The premium for each policy of insurance.

(D) The amount charged for each service contract.

(E) Any charge for an optional debt cancellation agreement.

(F) Any outstanding prior credit or lease balance.

(G) An itemization by type and agreed-upon value of each good or service included in the gross capitalized cost other than those items included in the disclosures required in subparagraphs (A) to (F), inclusive.

(3) The vehicle identification number of the leased vehicle.

(4) A brief description of each vehicle or other property being traded in and the agreed-upon value thereof if the amount due at the time of signing the lease or upon delivery is paid in whole or in part with a net trade-in allowance or the "Itemization of Gross Capitalized Cost" includes any portion of the outstanding prior credit or lease balance from the trade-in property.

(5) The fee, if any, to be retained by the lessor for document preparation, which fee may not exceed forty-five dollars (\$45) and may not be represented as a governmental fee.

(6) The amount of any optional business partnership automation program fee to register or transfer the vehicle, which shall be labeled "Optional DMV Electronic Filing Fee."

(d) Every lease contract shall contain, in at least 8-point boldface type, above the space provided for the lessee's signature and circumscribed by a line, the following notice: "(1) Do not sign this lease before you read it or if it contains any blank spaces to be filled in; (2) You

are entitled to a completely filled in copy of this lease; (3) Warning—Unless a charge is included in this lease for public liability or property damage insurance, payment for that coverage is not provided by this lease.”

(e) Every lease contract shall contain, in at least 8-point boldface type, on the first page of the contract and circumscribed by a line, the following notice:

“THERE IS NO COOLING OFF PERIOD

California law does not provide for a “cooling off” or other cancellation period for vehicle leases. Therefore, you cannot later cancel this lease simply because you change your mind, decided the vehicle costs too much, or wish you had acquired a different vehicle. You may cancel this lease only with the agreement of the lessor or for legal cause, such as fraud.”

(f) Every lease contract shall contain, in at least 8-point boldface type, the following notice: “You have the right to return the vehicle, and receive a refund of any payments made if the credit application is not approved, unless nonapproval results from an incomplete application or from incorrect information provided by you.”

(g) The lease contract shall be signed by the lessor and lessee, or their authorized representatives, and an exact copy of the fully executed lease contract shall be provided to the lessee at the time of signing.

(h) No motor vehicle shall be delivered under a lease contract subject to this chapter until the lessor provides to the lessee a fully executed copy of the lease contract.

(i) The lessor may not obtain the signature of the lessee to a contract when it contains blank spaces to be filled in after it has been signed.

(j) If the lease contract contains a provision that holds the lessee liable for the difference between (1) the adjusted capitalized cost disclosed in the lease contract reduced by the amounts described in subparagraph (A) of paragraph (5) of subdivision (b) of Section 2987 and (2) the settlement proceeds of the lessee’s required insurance and deductible in the event of theft or damage to the vehicle that results in a total loss, the lease contract shall contain the following notice in at least 8-point boldface type on the first page of the contract:

“GAP LIABILITY NOTICE

In the event of theft or damage to the vehicle that results in a total loss, there may be a GAP between the amount due upon early termination and the proceeds of your insurance settlement and deductible. THIS LEASE

PROVIDES THAT YOU ARE LIABLE FOR THE GAP AMOUNT. Optional coverage for the GAP amount may be offered for an additional price.”

SEC. 42. Section 2988.9 of the Civil Code is amended to read:

2988.9. Reasonable attorney’s fees and costs shall be awarded to the prevailing party in any action on a lease contract subject to the provisions of this chapter regardless of whether the action is instituted by the lessor, assignee, or lessee. Where the defendant alleges in his or her answer that he or she tendered to the plaintiff the full amount to which he or she was entitled, and thereupon deposits in court, for the plaintiff, the amount so tendered, and the allegation is found to be true, then the defendant is deemed to be the prevailing party within the meaning of this section.

SEC. 43. Section 715.010 of the Code of Civil Procedure is amended to read:

715.010. (a) A judgment for possession of real property may be enforced by a writ of possession of real property issued pursuant to Section 712.010. The application for the writ shall provide a place to indicate that the writ applies to all tenants, subtenants, if any, name of claimants, if any, and any other occupants of the premises.

(b) In addition to the information required by Section 712.020, the writ of possession of real property shall contain the following:

(1) A description of the real property, possession of which is to be delivered to the judgment creditor in satisfaction of the judgment.

(2) A statement that if the real property is not vacated within five days from the date of service of a copy of the writ on the occupant or, if the copy of the writ is posted, within five days from the date a copy of the writ is served on the judgment debtor, the levying officer will remove the occupants from the real property and place the judgment creditor in possession.

(3) A statement that any personal property, except a mobilehome, remaining on the real property after the judgment creditor has been placed in possession will be sold or otherwise disposed of in accordance with Section 1174 unless the judgment debtor or other owner pays the judgment creditor the reasonable cost of storage and takes possession of the personal property not later than 15 days after the time the judgment creditor takes possession of the real property.

(4) The date the complaint was filed in the action that resulted in the judgment of possession.

(5) The date or dates on which the court will hear objections to enforcement of a judgment of possession that are filed pursuant to Section 1174.3, unless a summons, complaint, and prejudgment claim of right to possession were served upon the occupants in accordance with Section 415.46.

(6) The daily rental value of the property as of the date the complaint for unlawful detainer was filed unless a summons, complaint, and prejudgment claim of right of possession were served upon the occupants in accordance with Section 415.46.

(7) If a summons, complaint, and prejudgment claim of right to possession were served upon the occupants in accordance with Section 415.46, a statement that the writ applies to all tenants, subtenants, if any, named claimants, if any, and any other occupants of the premises.

(c) At the time the writ of possession is served or posted, the levying officer shall also serve or post a copy of the form for a claim of right to possession, unless a summons, complaint, and prejudgment claim of right to possession were served upon the occupants in accordance with Section 415.46.

SEC. 44. Section 995.640 of the Code of Civil Procedure is amended to read:

995.640. The county clerk of any county shall, upon request of any person, do any of the following:

(a) Issue a certificate stating whether the certificate of authority of an admitted surety insurer issued by the Insurance Commissioner authorizing the insurer to transact surety insurance, has been surrendered, revoked, canceled, annulled, or suspended, and in the event that it has, whether renewed authority has been granted. The county clerk in issuing the certificate shall rely solely upon the information furnished by the Insurance Commissioner pursuant to Article 2 (commencing with Section 12070) of Chapter 1 of Part 4 of Division 2 of the Insurance Code.

(b) Issue a certificate stating whether a copy of the transcript or record of the unrevoked appointment, power of attorney, bylaws, or other instrument, duly certified by the proper authority and attested by the seal of an admitted surety insurer entitling or authorizing the person who executed a bond to do so for and in behalf of the insurer, is filed in the office of the clerk.

SEC. 45. Section 1021.8 of the Code of Civil Procedure is amended to read:

1021.8. (a) Whenever the Attorney General prevails in a civil action to enforce Section 22445, 22446.5, 22958, or 22962 of the Business and Professions Code, Section 52, 52.1, or 55 of the Civil Code, Section 1603.1, 2014, or 5650.1 of the Fish and Game Code, Section 4458, 12598, 12606, 12607, 12989.3, 66640, 66641, or 66641.7 of the Government Code, Section 13009, 13009.1, 19958.5, 25299, or 118950 of the Health and Safety Code, Section 308.1 or 308.3 of the Penal Code, Section 30820, 30821.6, or 30822 of the Public Resources Code, or Section 275, 1052, 1845, 13350, or 13385 of the Water Code, the court shall award to the Attorney General all costs of investigating

and prosecuting the action, including expert fees, reasonable attorney's fees, and costs. Awards under this section shall be paid to the Public Rights Law Enforcement Special Fund established by Section 12530 of the Government Code.

(b) This section applies to any action pending on the effective date of this section and to any action filed thereafter.

SEC. 46. Section 1563 of the Code of Civil Procedure is amended to read:

1563. (a) Except as provided in subdivisions (b) and (c), all escheated property delivered to the Controller under this chapter shall be sold by the Controller to the highest bidder at public sale in whatever city in the state affords in his or her judgment the most favorable market for the property involved, or the Controller may conduct the sale by electronic media, including, but not limited to, the Internet, if in his or her judgment it is cost effective to conduct the sale of the property involved in that manner. The Controller may decline the highest bid and reoffer the property for sale if he or she considers the price bid insufficient. The Controller need not offer any property for sale if, in his or her opinion, the probable cost of sale exceeds the value of the property. Any sale of escheated property held under this section shall be preceded by a single publication of notice thereof, at least one week in advance of sale, in an English language newspaper of general circulation in the county where the property is to be sold.

(b) Securities listed on an established stock exchange within two years following receipt by the Controller shall be sold at the prevailing prices on that exchange. Other securities may be sold over the counter at prevailing prices or, with prior approval of the California Victim Compensation and Government Claims Board, by any other method that the Controller may determine to be advisable. United States government savings bonds and United States war bonds shall be presented to the United States for payment. Subdivision (a) does not apply to the property described in this subdivision.

(c) (1) All escheated property consisting of military awards, decorations, equipment, artifacts, memorabilia, documents, photographs, films, literature, and any other item relating to the military history of California and Californians that is delivered to the Controller is exempt from subdivision (a) and shall be held in trust for the Controller at the California State Military Museum and Resource Center. All escheated property held in trust pursuant to this subdivision is subject to the applicable regulations of the United States Army governing Army museum activities as described in Section 179 of the Military and Veterans Code. Any person claiming an interest in the escheated property may file a claim to the property pursuant to Article 4 (commencing with Section 1540).

(2) The California State Military Museum and Resource Center shall be responsible for the costs of storage and maintenance of escheated property delivered by the Controller under this subdivision.

(d) The purchaser at any sale conducted by the Controller pursuant to this chapter shall receive title to the property purchased, free from all claims of the owner or prior holder thereof and of all persons claiming through or under them. The Controller shall execute all documents necessary to complete the transfer of title.

SEC. 47. Section 1822.60 of the Code of Civil Procedure is amended to read:

1822.60. A warrant may be issued under the requirements of this title to authorize personnel of the Division of Gambling Control of the Department of Justice to conduct inspections as provided in subdivision (a) of Section 19827 of the Business and Professions Code.

SEC. 48. Section 2023 of the Code of Civil Procedure is amended to read:

2023. (a) Misuses of the discovery process include, but are not limited to, the following:

(1) Persisting, over objection and without substantial justification, in an attempt to obtain information or materials that are outside the scope of permissible discovery.

(2) Using a discovery method in a manner that does not comply with its specified procedures.

(3) Employing a discovery method in a manner or to an extent that causes unwarranted annoyance, embarrassment, or oppression, or undue burden and expense.

(4) Failing to respond or to submit to an authorized method of discovery.

(5) Making, without substantial justification, a meritless objection to discovery.

(6) Making an evasive response to discovery.

(7) Disobeying a court order to provide discovery.

(8) Making or opposing, unsuccessfully and without substantial justification, a motion to compel or to limit discovery.

(9) Failing to confer in person, by telephone, or by letter with an opposing party or attorney in a reasonable and good faith attempt to resolve informally any dispute concerning discovery, if the section governing a particular discovery motion requires the filing of a declaration stating facts showing that such an attempt has been made. Notwithstanding the outcome of the particular discovery motion, the court shall impose a monetary sanction ordering that any party or attorney who fails to confer as required pay the reasonable expenses, including attorney's fees, incurred by anyone as a result of that conduct.

(b) To the extent authorized by the section governing any particular discovery method or any other provision of this article, the court, after notice to any affected party, person, or attorney, and after opportunity for hearing, may impose the following sanctions against anyone engaging in conduct that is a misuse of the discovery process:

(1) The court may impose a monetary sanction ordering that one engaging in the misuse of the discovery process, or any attorney advising that conduct, or both, pay the reasonable expenses, including attorney's fees, incurred by anyone as a result of that conduct. The court may also impose this sanction on one unsuccessfully asserting that another has engaged in the misuse of the discovery process, or on any attorney who advised that assertion, or on both. If a monetary sanction is authorized by any provision of this article, the court shall impose that sanction unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

(2) The court may impose an issue sanction ordering that designated facts shall be taken as established in the action in accordance with the claim of the party adversely affected by the misuse of the discovery process. The court may also impose an issue sanction by an order prohibiting any party engaging in the misuse of the discovery process from supporting or opposing designated claims or defenses.

(3) The court may impose an evidence sanction by an order prohibiting any party engaging in the misuse of the discovery process from introducing designated matters in evidence.

(4) The court may impose a terminating sanction by one of the following orders:

(A) An order striking out the pleadings or parts of the pleadings of any party engaging in the misuse of the discovery process.

(B) An order staying further proceedings by that party until an order for discovery is obeyed.

(C) An order dismissing the action, or any part of the action, of that party.

(D) An order rendering a judgment by default against that party.

(5) The court may impose a contempt sanction by an order treating the misuse of the discovery process as a contempt of court.

(c) A request for a sanction shall, in the notice of motion, identify every person, party, and attorney against whom the sanction is sought, and specify the type of sanction sought. The notice of motion shall be supported by a memorandum of points and authorities, and accompanied by a declaration setting forth facts supporting the amount of any monetary sanction sought.

SEC. 49. Section 2207 of the Corporations Code is amended to read:

2207. (a) A corporation is liable for a civil penalty in an amount not exceeding one million dollars (\$1,000,000) if the corporation does both of the following:

(1) Has actual knowledge that an officer, director, manager, or agent of the corporation does any of the following:

(A) Makes, publishes, or posts, or has made, published, or posted, either generally or privately to the shareholders or other persons, either of the following:

(i) An oral, written, or electronically transmitted report, exhibit, notice, or statement of its affairs or pecuniary condition that contains a material statement or omission that is false and intended to give the shares of stock in the corporation a materially greater or a materially less apparent market value than they really possess.

(ii) An oral, written, or electronically transmitted report, prospectus, account, or statement of operations, values, business, profits, or expenditures, that includes a material false statement or omission intended to give the shares of stock in the corporation a materially greater or a materially less apparent market value than they really possess.

(B) Refuses or has refused to make any book entry or post any notice required by law in the manner required by law.

(C) Misstates or conceals or has misstated or concealed from a regulatory body a material fact in order to deceive a regulatory body to avoid a statutory or regulatory duty, or to avoid a statutory or regulatory limit or prohibition.

(2) Within 30 days after actual knowledge is acquired of the actions described in paragraph (1), the corporation knowingly fails to do both of the following:

(A) Notify the Attorney General or appropriate government agency in writing, unless the corporation has actual knowledge that the Attorney General or appropriate government agency has been notified.

(B) Notify its shareholders in writing, unless the corporation has actual knowledge that the shareholders have been notified.

(b) The requirement for notification under this section is not applicable if the action taken or about to be taken by the corporation, or by an officer, director, manager, or agent of the corporation under paragraph (1) of subdivision (a), is abated within the time prescribed for reporting, unless the appropriate government agency requires disclosure by regulation.

(c) If the action reported to the Attorney General pursuant to this section implicates the government authority of an agency other than the Attorney General, the Attorney General shall promptly forward the written notice to that agency.

(d) If the Attorney General was not notified pursuant to subparagraph (A) of paragraph (2) of subdivision (a), but the corporation reasonably

and in good faith believed that it had complied with the notification requirements of this section by notifying a government agency listed in paragraph (5) of subdivision (e), no penalties shall apply.

(e) For purposes of this section:

(1) “Manager” means a person having both of the following:

(A) Management authority over a business entity.

(B) Significant responsibility for an aspect of a business that includes actual authority for the financial operations or financial transactions of the business.

(2) “Agent” means a person or entity authorized by the corporation to make representations to the public about the corporation’s financial condition and who is acting within the scope of the agency when the representations are made.

(3) “Shareholder” means a person or entity that is a shareholder of the corporation at the time the disclosure is required pursuant to subparagraph (B) of paragraph (2) of subdivision (a).

(4) “Notify its shareholders” means to give sufficient description of an action taken or about to be taken that would constitute acts or omissions as described in paragraph (1) of subdivision (a). A notice or report filed by a corporation with the United States Securities and Exchange Commission that relates to the facts and circumstances giving rise to an obligation under paragraph (1) of subdivision (a) shall satisfy all notice requirements arising under paragraph (2) of subdivision (a), but shall not be the exclusive means of satisfying the notice requirements, provided that the Attorney General or appropriate agency is informed in writing that the filing has been made together with a copy of the filing or an electronic link where it is available online without charge.

(5) “Appropriate government agency” means an agency on the following list that has regulatory authority with respect to the financial operations of a corporation:

(A) Department of Corporations.

(B) Department of Insurance.

(C) Department of Financial Institutions.

(D) Department of Managed Health Care.

(E) United States Securities and Exchange Commission.

(6) “Actual knowledge of the corporation” means the knowledge an officer or director of a corporation actually possesses or does not consciously avoid possessing, based on an evaluation of information provided pursuant to the corporation’s disclosure controls and procedures.

(7) “Refuse to make a book entry” means the intentional decision not to record an accounting transaction when all of the following conditions are satisfied:

(A) The independent auditors required recordation of an accounting transaction during the course of an audit.

(B) The audit committee of the corporation has not approved the independent auditor's recommendation.

(C) The decision is made for the primary purpose of rendering the financial statements materially false or misleading.

(8) "Refuse to post any notice required by law" means an intentional decision not to post a notice required by law when all of the following conditions exist:

(A) The decision not to post the notice has not been approved by the corporation's audit committee.

(B) The decision is intended to give the shares of stock in the corporation a materially greater or a materially less apparent market value than they really possess.

(9) "Misstate or conceal material facts from a regulatory body" means an intentional decision not to disclose material facts when all of the following conditions exist:

(A) The decision not to disclose material facts has not been approved by the corporation's audit committee.

(B) The decision is intended to give the shares of stock in the corporation a materially greater or a materially less apparent market value than they really possess.

(10) "Material false statement or omission" means an untrue statement of material fact or an omission to state a material fact necessary in order to make the statements made under the circumstances under which they were made not misleading.

(11) "Officer" means any person as set forth in Rule 16A-1 promulgated under the Securities Exchange Act of 1934 or any successor regulation thereto, except an officer of a subsidiary corporation who is not also an officer of the parent corporation.

(f) This section only applies to corporations that are issuers, as defined in Section 2 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. Sec. 7201 and following).

(g) An action to enforce this section may only be brought by the Attorney General or a district attorney or city attorney in the name of the people of the State of California.

SEC. 50. Section 13401.5 of the Corporations Code is amended to read:

13401.5. Notwithstanding subdivision (d) of Section 13401 and any other provision of law, the following licensed persons may be shareholders, officers, directors, or professional employees of the professional corporations designated in this section so long as the sum of all shares owned by those licensed persons does not exceed 49 percent of the total number of shares of the professional corporation so

designated herein, and so long as the number of those licensed persons owning shares in the professional corporation so designated herein does not exceed the number of persons licensed by the governmental agency regulating the designated professional corporation:

- (a) Medical corporation.
 - (1) Licensed doctors of podiatric medicine.
 - (2) Licensed psychologists.
 - (3) Registered nurses.
 - (4) Licensed optometrists.
 - (5) Licensed marriage and family therapists.
 - (6) Licensed clinical social workers.
 - (7) Licensed physician assistants.
 - (8) Licensed chiropractors.
 - (9) Licensed acupuncturists.
 - (10) Naturopathic doctors.
- (b) Podiatric medical corporation.
 - (1) Licensed physicians and surgeons.
 - (2) Licensed psychologists.
 - (3) Registered nurses.
 - (4) Licensed optometrists.
 - (5) Licensed chiropractors.
 - (6) Licensed acupuncturists.
 - (7) Naturopathic doctors.
- (c) Psychological corporation.
 - (1) Licensed physicians and surgeons.
 - (2) Licensed doctors of podiatric medicine.
 - (3) Registered nurses.
 - (4) Licensed optometrists.
 - (5) Licensed marriage and family therapists.
 - (6) Licensed clinical social workers.
 - (7) Licensed chiropractors.
 - (8) Licensed acupuncturists.
 - (9) Naturopathic doctors.
- (d) Speech-language pathology corporation.
 - (1) Licensed audiologists.
- (e) Audiology corporation.
 - (1) Licensed speech-language pathologists.
- (f) Nursing corporation.
 - (1) Licensed physicians and surgeons.
 - (2) Licensed doctors of podiatric medicine.
 - (3) Licensed psychologists.
 - (4) Licensed optometrists.
 - (5) Licensed marriage and family therapists.
 - (6) Licensed clinical social workers.

- (7) Licensed physician assistants.
- (8) Licensed chiropractors.
- (9) Licensed acupuncturists.
- (10) Naturopathic doctors.
- (g) Marriage and family therapy corporation.
 - (1) Licensed physicians and surgeons.
 - (2) Licensed psychologists.
 - (3) Licensed clinical social workers.
 - (4) Registered nurses.
 - (5) Licensed chiropractors.
 - (6) Licensed acupuncturists.
 - (7) Naturopathic doctors.
- (h) Licensed clinical social worker corporation.
 - (1) Licensed physicians and surgeons.
 - (2) Licensed psychologists.
 - (3) Licensed marriage and family therapists.
 - (4) Registered nurses.
 - (5) Licensed chiropractors.
 - (6) Licensed acupuncturists.
 - (7) Naturopathic doctors.
- (i) Physician assistants corporation.
 - (1) Licensed physicians and surgeons.
 - (2) Registered nurses.
 - (3) Licensed acupuncturists.
 - (4) Naturopathic doctors.
- (j) Optometric corporation.
 - (1) Licensed physicians and surgeons.
 - (2) Licensed doctors of podiatric medicine.
 - (3) Licensed psychologists.
 - (4) Registered nurses.
 - (5) Licensed chiropractors.
 - (6) Licensed acupuncturists.
 - (7) Naturopathic doctors.
- (k) Chiropractic corporation.
 - (1) Licensed physicians and surgeons.
 - (2) Licensed doctors of podiatric medicine.
 - (3) Licensed psychologists.
 - (4) Registered nurses.
 - (5) Licensed optometrists.
 - (6) Licensed marriage and family therapists.
 - (7) Licensed clinical social workers.
 - (8) Licensed acupuncturists.
 - (9) Naturopathic doctors.
- (l) Acupuncture corporation.

- (1) Licensed physicians and surgeons.
- (2) Licensed doctors of podiatric medicine.
- (3) Licensed psychologists.
- (4) Registered nurses.
- (5) Licensed optometrists.
- (6) Licensed marriage and family therapists.
- (7) Licensed clinical social workers.
- (8) Licensed physician assistants.
- (9) Licensed chiropractors.
- (10) Naturopathic doctors.
- (m) Naturopathic doctor corporation.
- (1) Licensed physicians and surgeons.
- (2) Licensed psychologists.
- (3) Registered nurses.
- (4) Licensed physician assistants.
- (5) Licensed chiropractors.
- (6) Licensed acupuncturists.
- (7) Licensed physical therapists.
- (8) Licensed doctors of podiatric medicine.
- (9) Licensed marriage, family, and child counselors.
- (10) Licensed clinical social workers.
- (11) Licensed optometrists.
- (n) Dental corporation.
- (1) Licensed physicians and surgeons.
- (2) Dental assistants.
- (3) Registered dental assistants.
- (4) Registered dental assistants in extended functions.
- (5) Registered dental hygienists.
- (6) Registered dental hygienists in extended functions.
- (7) Registered dental hygienists in alternative practice.

SEC. 51. Section 14010 of the Corporations Code is amended to read:

14010. Unless the context otherwise requires, the definitions in this section govern the construction of this part.

(a) "Corporation" or "the corporation" means any nonprofit California small business financial development corporation created pursuant to this part.

(b) "Financial institution" means banking organizations including national banks and trust companies authorized to conduct business in California and state-chartered commercial banks, trust companies, and savings and loan associations.

(c) "Financial company" means banking organizations including national banks and trust companies, savings and loan associations, state

insurance companies, mutual insurance companies, and other banking, lending, retirement, and insurance organizations.

(d) "Expansion Fund" means the California Small Business Expansion Fund.

(e) Unless otherwise defined by the office by regulation, "small business loan" means a loan to a business defined as an eligible small business as set forth in Section 121.3-10 of Part 121 of Chapter 1 of Title 13 of the Code of Federal Regulations, including those businesses organized for agricultural purposes that create or retain employment as a result of the loan. From time to time, the director shall provide guidelines as to the preferred ratio of jobs created or retained to total funds borrowed for guidance to the corporations.

(f) "Employment incentive loan" means a loan to a qualified business, as defined in subdivision (h) of Section 7082 of the Government Code, or to a business located within an enterprise zone, as defined in subdivision (b) of Section 7072 of the Government Code.

(g) "Loan committee" means a committee appointed by the board of directors of a corporation to determine the course of action on a loan application pursuant to Section 14060.

(h) "Board of directors" means the board of directors of the corporation.

(i) "Office" means the California Office of Small Business.

(j) "Board" means the California Small Business Board.

(k) "Agency" means the Business, Transportation and Housing Agency.

(l) "Director" means the Executive Director of the California Office of Small Business.

(m) "Secretary" means the Secretary of Business, Transportation and Housing.

(n) "Trust fund" means the money from the expansion fund that is held in trust by a financial institution or a financial company. A trust fund is not a deposit of state funds and is not subject to the requirements of Section 16506 of the Government Code.

(o) "Trust fund account" means an account within the trust fund that is allocated to a particular small business financial development corporation for the purpose of paying loan defaults and claims on bond guarantees for a specific small business financial development corporation.

(p) "Trustee" is the lending institution or financial company selected by the office to hold and invest the trust fund. The agreement between the agency and the trustee shall not be construed to be a deposit of state funds.

SEC. 52. Section 17655 of the Corporations Code, as added by Section 3 of Chapter 477 of the Statutes of 2003, is amended and renumbered to read:

17656. (a) A limited liability company is liable for a civil penalty in an amount not exceeding one million dollars (\$1,000,000) if the limited liability company does both of the following:

(1) Has actual knowledge that a member, officer, manager, or agent of the limited liability company does any of the following:

(A) Makes, publishes, or posts, or has made, published, or posted, either generally or privately to the shareholders or other persons, either of the following:

(i) An oral, written, or electronically transmitted report, exhibit, notice, or statement of its affairs or pecuniary condition that contains a material statement or omission that is false and intended to give membership shares in the limited liability company a materially greater or a materially less apparent market value than they really possess.

(ii) An oral, written, or electronically transmitted report, prospectus, account, or statement of operations, values, business, profits, or expenditures that includes a material false statement or omission intended to give membership shares in the limited liability company a materially greater or a materially less apparent market value than they really possess.

(B) Refuses or has refused to make any book entry or post any notice required by law in the manner required by law.

(C) Misstates or conceals or has misstated or concealed from a regulatory body a material fact in order to deceive a regulatory body to avoid a statutory or regulatory duty, or to avoid a statutory or regulatory limit or prohibition.

(2) Within 30 days after actual knowledge is acquired of the actions described in paragraph (1), the limited liability company knowingly fails to do both of the following:

(A) Notify the Attorney General or appropriate government agency in writing, unless the limited liability company has actual knowledge that the Attorney General or appropriate government agency has been notified.

(B) Notify its members and investors in writing, unless the limited liability company has actual knowledge that the members and investors have been notified.

(b) The requirement for notification under this section is not applicable if the action taken or about to be taken by the limited liability company, or by a member, officer, manager, or agent of the limited liability company under paragraph (1) of subdivision (a), is abated within the time prescribed for reporting, unless the appropriate government agency requires disclosure by regulation.

(c) If the action reported to the Attorney General pursuant to this section implicates the government authority of an agency other than the Attorney General, the Attorney General shall promptly forward the written notice to that agency.

(d) If the Attorney General was not notified pursuant to subparagraph (A) of paragraph (2) of subdivision (a), but the limited liability company reasonably and in good faith believed that it had complied with the notification requirements of this section by notifying a government agency listed in paragraph (5) of subdivision (e), no penalties shall apply.

(e) For purposes of this section:

(1) "Manager" means a person defined by subdivision (w) of Section 17001 having both of the following:

(A) Management authority over the limited liability company.

(B) Significant responsibility for an aspect of the limited liability company that includes actual authority for the financial operations or financial transactions of the limited liability company.

(2) "Agent" means a person or entity authorized by the limited liability company to make representations to the public about the limited liability company's financial condition and who is acting within the scope of the agency when the representations are made.

(3) "Member" means a person as defined by subdivision (x) of Section 17001 that is a member of the limited liability company at the time the disclosure is required pursuant to subparagraph (B) of paragraph (2) of subdivision (a).

(4) "Notify its members" means to give sufficient description of an action taken or about to be taken that would constitute acts or omissions as described in paragraph (1) of subdivision (a). A notice or report filed by a limited liability company with the United States Securities and Exchange Commission that relates to the facts and circumstances giving rise to an obligation under paragraph (1) of subdivision (a) shall satisfy all notice requirements arising under paragraph (2) of subdivision (a) but shall not be the exclusive means of satisfying the notice requirements, provided that the Attorney General or appropriate agency is informed in writing that the filing has been made together with a copy of the filing or an electronic link where it is available online without charge.

(5) "Appropriate government agency" means an agency on the following list that has regulatory authority with respect to the financial operations of a limited liability company:

(A) Department of Corporations.

(B) Department of Insurance.

(C) Department of Financial Institutions.

(D) Department of Managed Health Care.

(E) United States Securities and Exchange Commission.

(6) “Actual knowledge of the limited liability company” means the knowledge a member, officer, or manager of a limited liability company actually possesses or does not consciously avoid possessing, based on an evaluation of information provided pursuant to the limited liability company’s disclosure controls and procedures.

(7) “Refuse to make a book entry” means the intentional decision not to record an accounting transaction when all of the following conditions are satisfied:

(A) The independent auditors required recordation of an accounting transaction during the course of an audit.

(B) The audit committee of the limited liability company has not approved the independent auditor’s recommendation.

(C) The decision is made for the primary purpose of rendering the financial statements materially false or misleading.

(8) “Refuse to post any notice required by law” means an intentional decision not to post a notice required by law when all of the following conditions exist:

(A) The decision not to post the notice has not been approved by the limited liability company’s audit committee.

(B) The decision is intended to give the membership shares in the limited liability company a materially greater or a materially less apparent market value than they really possess.

(9) “Misstate or conceal material facts from a regulatory body” means an intentional decision not to disclose material facts when all of the following conditions exist:

(A) The decision not to disclose material facts has not been approved by the limited liability company’s audit committee.

(B) The decision is intended to give the membership shares in the limited liability company a greater or a less apparent market value than they really possess.

(10) “Material false statement or omission” means an untrue statement of material fact or an omission to state a material fact necessary in order to make the statements made under the circumstances under which they were made not misleading.

(11) “Officer” means a person appointed pursuant to Section 17154, except an officer of a specified subsidiary limited liability company who is not also an officer of the parent limited liability company.

(f) This section only applies to limited liability companies that are issuers, as defined in Section 2 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. Sec. 7201 and following).

(g) An action to enforce this section may only be brought by the Attorney General or a district attorney or city attorney in the name of the people of the State of California.

SEC. 53. Section 8266.1 of the Education Code is amended to read:

8266.1. Commencing with the 1995–96 fiscal year and each fiscal year thereafter, for the purposes of this chapter, reimbursement rates shall be adjusted by the following reimbursement factors for child care and development programs with a standard reimbursement rate, but shall not apply to the Resource and Referral Programs set forth in Article 2 (commencing with Section 8210), the Alternative Payment Programs set forth in Article 3 (commencing with Section 8220), the State Preschool Programs set forth in Article 7 (commencing with Section 8235), the School-age Community Child Care Services programs set forth in Article 22 (commencing with Section 8460), or to the school-age parent and infant development programs:

(a) For child care and development program providers serving children for less than four hours per day, the reimbursement factor is 55 percent of the standard reimbursement rate.

(b) For child care and development program providers serving children for not less than four hours per day, and less than six and one-half hours per day, the reimbursement factor is 75 percent of the standard reimbursement rate. For providers operating under the At Risk Child Care Program set forth in Article 15.5 (commencing with Section 8350) and serving children for not less than four hours per day, and less than seven hours per day, the reimbursement factor is 75 percent of the standard reimbursement rate.

(c) For child care and development program providers serving children for not less than six and one-half hours per day, and less than 10 and one-half hours per day, the reimbursement factor is 100 percent of the standard reimbursement rate. For providers operating under the At Risk Child Care Program set forth in Article 15.5 (commencing with Section 8350) and serving children for not less than seven hours per day, and less than 10 hours per day, the reimbursement factor is 100 percent of the standard reimbursement rate.

(d) For child care and development program providers serving children for 10 and one-half hours or more per day, the reimbursement factor is 118 percent of the standard reimbursement rate.

SEC. 54. Section 8813 of the Education Code is amended to read:

8813. (a) Each eligible local arts agency may apply for a grant of up to one hundred thousand dollars (\$100,000) per year for the development, implementation, and review of an arts education program. Each grant application shall be preceded by a letter of intent to file that application submitted by the local arts agency on or before the January 1 immediately preceding the fiscal year for which grant funding is requested. Each eligible local arts agency shall include in its letter of intent an authorization to make application to this program from the county board of supervisors if the agency is a county agency or designated by the county board of supervisors, or from the city council

if the agency is an agency of the city or is designated by the city. If the local arts agency is neither designated by, nor a department of, either city or county government, it shall include authorization by its board of trustees authorizing the agency to make application under this program.

(b) Each grant application shall include, but not be limited to, all of the following:

(1) A plan for the proposed arts education program that meets all of the following criteria:

(A) The plan has been approved by resolution of the governing board of each participating school district or by the county board of education.

(B) The plan includes an assessment of the needs of public schools included in the partnership located within the jurisdiction of the local arts agency that is consistent with the guidelines for those assessments developed by the department in consultation with the California Arts Council. The plan shall evidence appropriate participation by local citizens who are representative of the ethnic and cultural composition of the county.

(C) The plan shall describe a comprehensive arts education program that conforms to the tenets of the state's adopted curriculum framework for visual and performing arts as published by the department in Visual and Performing Arts Framework for California Public Schools: Kindergarten through Grade 12, and shall include instruction in the four disciplines of dance, drama and theatre, music, and the visual arts for all pupils. The plan may also include other arts disciplines, including folk arts, film, video, and the writing of plays, scripts, and poetry.

(D) The plan proposes the use of community arts resources, including, but not limited to, professional artists, arts specialists, performing artists and companies, museums, nonprofit art galleries, institutions of higher education, resident artists organizations, and any program of the local arts agency or general community resources that provide arts education services, instruction, workshops, performances, or demonstrations.

(E) The plan provides for a local steering committee comprised of not less than 10, nor more than 13, members selected from professional artists, arts educators, administrators, teachers, arts organizations, school board members, and other citizens, to include the following members reflecting a balance between the education and the arts communities:

- (i) One representative of the local arts agency.
- (ii) Two professional artists.
- (iii) One representative of a local educational agency.
- (iv) Two teachers, including one from the local educational agency.
- (v) Two arts specialists.
- (vi) One community representative at large.

(vii) One representative of an institution of higher education, who shall be either a faculty member in the visual and performing arts or arts education or have had prior experience in these two areas.

(F) The plan describes school needs, program goals, and a process for screening community arts resources. The fiscal procedures and pay rates shall be in accordance with standards established by the California Arts Council. Any of the community arts resources described in subparagraph (D) are eligible for a program grant if they demonstrate high-quality arts performance, production, or instruction.

(G) The plan shall include an appropriate orientation for artists and teachers in participating schools.

(H) The plan shall include a staff development program which accounts for at least 10 percent of the overall budget for the plan, but not more than 20 percent of the overall budget for all public school teachers participating in the program under the California Arts Project, as established pursuant to Chapter 5 (commencing with Section 99200) of Part 65. For the purposes of this paragraph, a teacher is participating in the program if he or she instructs a class that will have more than 10 hours of direct contact with a community arts representative.

(I) The plan shall include a description of the manner in which funding for the staff development programs described in subparagraph (H) shall be used in providing services to teachers. The local educational agency shall use the services of the California Arts Project established pursuant to Chapter 5 (commencing with Section 99200) of Part 65 and shall consult with at least one of the following entities in developing the staff development plans: a county office of education, an arts agency, an arts provider, a professional arts association, or an institution of higher education.

(J) The plan shall assess the arts education of homeless children, children with special needs, children at risk, school dropouts, and the children of migrant workers who may not be attending class regularly. It is the intent of the Legislature that special supplementary funds, not to exceed 10 percent of the total state dollars, shall be appropriated for purposes of this subparagraph. Arts education delivered pursuant to this paragraph is exempt from the local matching funds requirement described in Section 8814.

(2) A proposed budget for expenditure of the grant, which shall be submitted on a form developed by the California Arts Council for that purpose.

(3) A section demonstrating the manner in which the proposal furthers the implementation of the model curriculum standards set forth in Section 51226, the Visual and Performing Arts Framework for California Public Schools: Kindergarten through Grade Twelve published by the department, or the implementation or operation of

specialized secondary programs pursuant to Chapter 6 (commencing with Section 58800) of Part 31.

(4) A section designating the source of all local matching funds, as described in Section 8814.

SEC. 55. Section 8825 of the Education Code is amended to read: 8825. An eligible applicant may submit a project proposal that addresses one or more of the following areas:

(a) Arts education programs that are aligned to the state adopted visual and performing arts content standards and framework.

(b) Pupil assessment in the arts.

(c) Participation in local and state networks to create comprehensive standards based arts education programs.

(d) Expanding the capacity to assist pupils in achieving the state adopted visual and performing arts content standards.

(e) Developing an online statewide digital visual and performing arts resource center.

(f) Expanding arts education programs developed through participation in the Local Arts Education Partnership Program as set forth in Chapter 5 (commencing with Section 8810).

SEC. 56. Section 17077.45 of the Education Code is amended to read:

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.

(1) For a project application qualifying for funding under paragraph (1) 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. This per-pupil eligibility adjustment shall be calculated to cover costs associated with the project that are uniquely related to the joint-use nature of the project, including, but not limited to, any increased costs associated with planning the joint-use aspect of the project.

(2) For a project application qualifying under paragraph (2) or (3) of subdivision (b) of Section 17077.40, the supplemental grant may be provided without regard to the existence of per-pupil eligibility pursuant to this chapter, and may be expressed on a 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 first 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. 57. Section 17334 of the Education Code is amended to read:

17334. During the construction of a private school structure, the enforcement agency shall require the engineer of record responsible for the structural design, or that engineer's authorized representative, to make periodic reviews of construction at the construction site to observe compliance with the approved structural plans, specifications, and change orders. The engineer of record in general responsible charge of the work of construction, and the registered professional engineer, shall make a report, duly verified by him or her through periodic review of construction, showing that the work done during the period covered by the report has been performed and that the materials used and installed are in accordance with the approved drawings and specifications. Any detailed statements of fact required by the enforcement agency shall be included. These observations and statements shall not be relied upon by others as acceptance of the work, nor shall they be construed to relieve the contractor in any way of his or her obligations and responsibilities under the construction contract.

"Periodic review of construction," as used in this section and as applied to the architect, civil engineer, structural engineer, or the registered professional engineer, means the knowledge that is obtained from periodic visits of reasonable frequency to the project site for the purpose of general observation of the work. It also means the knowledge that is obtained from the reporting of others as to the progress of the work, testing of materials, inspection, and superintendence of the work that is performed between those periodic visits of the architect, civil engineer, or structural engineer, or the registered engineer. The exercise of reasonable diligence to obtain the facts is required. "Periodic review of construction" does not include responsibility for superintendence of construction processes, site conditions, operations, equipment, personnel, or maintenance of a safe place to work or any safety in, on, or about the site of work.

SEC. 58. Section 17360 of the Education Code is amended to read: 17360. Sections 17297, 17302, 17307, 17309, and 17311 shall not apply with respect to the design and construction of onsite work except where required by Section 17358.

SEC. 59. Section 22852 of the Education Code is amended to read: 22852. (a) An employer reemploying a member of the Defined Benefit Program with service subject to the requirements of Chapter 43 (commencing with Section 4301) of Title 38 of the United States Code shall be liable to the plan for the employer contributions under this part, provided that employer was the last employer employing the member immediately prior to the period served by the member in the uniformed services.

(b) For purposes of determining the amount of that liability under this part and any obligation to the plan with respect to the Defined Benefit Program, interest shall not be included in the liability to the plan.

(c) Subject to subdivision (e), the employer shall pay the employer contributions for the eligible period of service in the uniformed services that would have been required under Sections 22950 and 22951 had the member remained continuously employed during that period of eligible service in the uniformed services.

(d) The employer shall not be liable for employer contributions under this part for the eligible period of service in the uniformed services to the extent that the member fails to remit the member contributions for that period.

(e) The employer shall provide information regarding the reemployment of a member who is subject to Chapter 43 (commencing with Section 4301) of Title 38 of the United States Code on a form prescribed by the system within 30 days of the date of reemployment.

(f) Employers shall remit to the plan with respect to the Defined Benefit Program the employer contributions required under subdivision (c) within 60 working days of the date the system notifies the employer of the amount of contributions due with respect to the member who elects to remit the member contributions for the eligible period of service in the uniformed services.

(g) If the employee does not comply with subdivision (b) of Section 22851 within the time period specified, the employer contributions that were remitted for that period shall be adjusted pursuant to Section 23008.

SEC. 60. Section 22854 of the Education Code is amended to read: 22854. A reemployed member who has been absent from a position of employment subject to coverage under the Defined Benefit Program to perform service in the uniformed services, pursuant to Section 22850, for a period in excess of five years shall not be entitled to service credit or credit for plan vesting purposes under this part, except where the

service in the uniformed services has exceeded five years for the following reasons:

(a) The member is required to serve beyond five years to complete an initial period of obligated service.

(b) The member was unable to obtain orders releasing the member from a period of service in the uniformed services before the expiration of the five-year period and that inability was through no fault of the member.

(c) The member served in the uniformed services as required pursuant to Section 270 of Title 10 of the United States Code, Section 502(a) or 503 of Title 32 of the United States Code, or to fulfill additional training requirements determined and certified in writing by the Secretary of Defense, to be necessary for professional development, or for completion of skill training or retraining.

(d) The member is ordered to do any of the following:

(1) Ordered to or retained on active duty under Section 672(a), 672(g), 673, 673(b), 673(c), or 688 of Title 10 of the United States Code or under Section 331, 332, 359, 360, 367, or 712 of Title 14 of the United States Code.

(2) Ordered to or retained on active duty, other than for training, under any provision of law during a war or during a national emergency declared by the President or the Congress.

(3) Ordered to active duty, other than for training, in support, as determined by the secretary concerned, of an operational mission for which personnel have been ordered to active duty under Section 673(b) of Title 10 of the United States Code.

(4) Ordered to active duty in support, as determined by the secretary concerned, of a critical mission or requirement of the uniformed services.

(5) Called into federal service as a member of the National Guard under Chapter 15 (commencing with Section 331) of Title 10 of the United States Code or under Section 3500 or 8500 of Title 10 of the United States Code.

SEC. 61. Section 27403 of the Education Code is amended to read: 27403. The nonparticipant spouse who is awarded separate nominal accounts pursuant to Section 27402 is not a participant of the Cash Balance Benefit Program. The nonparticipant spouse is entitled only to rights and benefits explicitly established by this chapter.

SEC. 62. Section 32265 of the Education Code is amended to read: 32265. (a) The partnership shall sponsor at least two regional conferences for school districts, county offices of education, youth serving agencies, allied agencies, community-based organizations, and law enforcement agencies to identify exemplary programs and techniques that have been effectively utilized to reduce school crime,

including hate crimes, vandalism, drug and alcohol abuse, gang membership and gang violence, truancy, and excessive absenteeism.

(b) The conference may include, but need not be limited to, information on all of the following topics:

- (1) Interagency collaboration between schools, youth serving agencies, law enforcement agencies, and others.
- (2) School attendance.
- (3) School safety.
- (4) Citizenship education.
- (5) Drug and alcohol abuse.
- (6) Child abuse prevention, detection, and reporting.
- (7) Parental education.
- (8) Crisis response training.
- (9) Bullying prevention.
- (10) Threat assessment.
- (11) Conflict resolution and youth mediation.
- (12) Teen relationship violence.
- (13) Discrimination and harassment reporting and prevention, including, but not limited to, sexual harassment reporting and prevention.
- (14) Hate crime reporting and prevention.
- (15) Reporting and prevention of abuse against pupils with disabilities.

SEC. 63. Section 42238.41 of the Education Code is amended to read:

42238.41. (a) For the 1996–97 fiscal year, the county superintendent of schools, in conjunction with the Superintendent of Public Instruction, shall compute an equalization adjustment for each school district in the county, so that no district’s 1995–96 base revenue limit per unit of average daily attendance is less than the 1995–96 fiscal year statewide average base revenue limit for the appropriate size and type of district listed in subdivision (b).

For purposes of this section, the district base revenue limit and the statewide average base revenue limit shall not include any amounts attributable to Section 45023.4, 46200, or 46201.

(b) Subdivision (a) shall apply to the following school districts, which shall be grouped according to size and type as follows:

District	ADA
Elementary	less than 101
Elementary	more than 100
High School	less than 301
High School	more than 300

Unified	less than 1,501
Unified	more than 1,500

(c) The Superintendent of Public Instruction shall compute a revenue limit equalization adjustment for each school district’s base revenue limit per unit of average daily attendance as follows:

(1) Add the products of the amount computed for each school district by the county superintendent pursuant to subdivision (a) and the average daily attendance used to calculate the district’s revenue limit for the current fiscal year as adjusted for the deficit factor in Section 42238.145.

(2) Divide the amount appropriated for purposes of this section for the current fiscal year by the amount computed pursuant to paragraph (1).

(3) Multiply the amount computed for the school district pursuant to subdivision (a) by the amount computed pursuant to paragraph (2).

(d) For the purposes of this section, the 1995–96 statewide average base revenue limits determined for the purposes of subdivision (a) and the fraction computed pursuant to paragraph (2) of subdivision (c) by the Superintendent of Public Instruction for the 1995–96 second principal apportionment shall be final, and shall not be recalculated at subsequent apportionments. In no event shall the fraction computed pursuant to paragraph (2) of subdivision (c) exceed 1.00. For the purposes of determining the size of a district used in subdivision (b), county superintendents of schools, in conjunction with the Superintendent of Public Instruction, shall use a school district’s revenue limit average daily attendance for the 1995–96 fiscal year as determined pursuant to Section 42238.5 and Article 4 (commencing with Section 42280).

SEC. 64. Section 44279.2 of the Education Code is amended to read:

44279.2. (a) The superintendent and the commission shall jointly administer the Beginning Teacher Support and Assessment System pursuant to this chapter. In administering this section, the superintendent and the commission shall provide or contract for the provision of all of the following:

(1) Establishing requirements for reviewing and approving teacher induction programs.

(2) Developing and administering a system for ensuring teacher induction program quality and effectiveness. For the purposes of this section, “program effectiveness” means producing excellent program outcomes in relation to the purposes defined in subdivision (b) of Section 44279.1. For the purposes of this section, “program quality” means excellence with respect to program factors, including, but not limited to, all of the following:

(A) Program goals.

(B) Design resources.

- (C) Management, evaluation, and improvement of the program.
 - (D) School context and working conditions.
 - (E) Support and assessment services to each beginning teacher.
- (3) Developing purposes and functions for reviewing and approving supplemental grants and standards for program clusters and program consultants, as defined pursuant to Section 44279.7.
- (4) Improving and refining the formative assessment system.
- (5) Improving and refining professional development materials and strategies for all personnel involved in implementing induction programs.
- (6) Conducting and tracking research related to beginning teacher induction.
- (7) Periodically evaluating the validity of the California Standards for the Teaching Profession adopted by the commission in January 1997 and the Standards of Quality and Effectiveness for Beginning Teacher Support and Assessment Program adopted by the commission in 1997 and making changes to those documents, as necessary.
- (b) As part of the Beginning Teacher Support and Assessment System, the commission and the superintendent shall establish requirements for local teacher induction programs.
- (c) A school district or consortium of school districts may apply to the superintendent for funding to establish a local teacher induction program pursuant to this section. From amounts appropriated for the purposes of this section, the superintendent shall allocate three thousand dollars (\$3,000) for each beginning teacher participating in the program. That amount shall be adjusted each fiscal year by the inflation factor set forth in Section 42238.1. To be eligible to receive funding, a school district or consortium of school districts shall, at a minimum, meet all of the following requirements:
- (1) Develop, implement, and evaluate teacher induction programs that meet the Quality and Effectiveness for Beginning Teacher Induction Program Standards adopted by the commission in 1997.
 - (2) Support beginning teachers in meeting the competencies described in the California Standards for the Teaching Profession adopted by the commission in January 1997.
 - (3) Meet criteria for the cost-effective delivery of program services.
 - (4) From amounts received from local, state, or resources available for the purposes of teacher induction programs, contribute not less than two thousand dollars (\$2,000) for the costs of each beginning teacher served in the induction program.
- (d) Teachers who have received their preliminary credential in a district intern program pursuant to Article 7.5 (commencing with Section 44325) or an intern program pursuant to Article 3 (commencing with Section 44450) of Chapter 3 and who are participating in an

induction program pursuant to this section are not eligible for funding pursuant to Article 11 (commencing with Section 44380) of Chapter 2.

SEC. 65. Section 44328 of the Education Code is amended to read:

44328. (a) Unless the commission determines that substantial evidence exists that a person is unqualified to teach, upon the completion of successful service as a district intern pursuant to subdivision (b) of Section 44325, and upon the recommendation of the school district governing board, the commission shall award professional credentials to district interns in the same manner as applicants recommended for credentials by institutions that operate approved programs of professional preparation.

(b) Notwithstanding paragraphs (1) and (2) of subdivision (a) of Section 44225, paragraphs (3), (4), (5), and (6) of subdivision (b) of Section 44259, paragraphs (1), (2), (3), and (4) of subdivision (c) of Section 44259, and Sections 44261, 44265, and 44335, it is the intent of the Legislature that, upon recommendation by the governing board, district interns shall be issued professional credentials, rather than preliminary credentials, upon the completion of successful service as a teacher pursuant to subdivision (b) of Section 44325, unless the governing board recommends, and the commission finds substantial evidence, that the person is not qualified to teach. A school district may require a district intern who is pursuing a professional credential to complete an approved induction program if funds are available or approved coursework in accordance with paragraph (5) of subdivision (c) of Section 44259. Pursuant to Article 11 (commencing with Section 44380), teachers participating in an induction program pursuant to Article 4.5 (commencing with Section 44279.1) are no longer eligible for funding under the district intern program.

(c) Notwithstanding subdivisions (a) and (b), the governing board of a school district may request the commission to issue a preliminary teaching credential to an intern who has met the requirements for a preliminary teaching credential, as specified in subdivision (b) of Section 44259, but who has not successfully completed the requirements for a professional clear credential pursuant to subdivision (c) of Section 44259.

(d) Notwithstanding Section 44261, the preliminary credential awarded to any district intern holding a district intern credential to teach bilingual education classes shall be a basic teaching credential with a bilingual-crosscultural language and academic development emphasis. Notwithstanding Section 44265, the preliminary credential awarded to any district intern who holds a district intern credential to teach special education pupils with mild and moderate disabilities shall be a special education specialist instruction credential that authorizes the holder to teach special education pupils with mild and moderate disabilities.

(e) It is the intent of the Legislature that institutions of higher education that operate approved programs of professional preparation work cooperatively with school districts that offer district intern programs for a special education specialist credential to apply the regular education coursework and fieldwork from the special education district intern program toward earning a multiple or single subject teaching credential through the institution.

SEC. 66. Section 44735 of the Education Code is amended to read: 44735. (a) The Teaching As A Priority Block Grant is hereby created to be administered by the department with the approval of the State Board of Education. The department shall award block grants to school districts on a competitive basis to provide incentives to attract credentialed teachers to be employed and retained in high-priority schools.

(b) (1) To be eligible to receive a full block grant in the third year of participation, a school district shall demonstrate a net decrease in the number of teachers holding an emergency permit or waiver at each school ranked in the bottom half of the Academic Performance Index pursuant to Article 2 (commencing with Section 52051) of Chapter 6.1.

(2) After two years of receiving a block grant, a school district that fails to demonstrate a net decrease in the number of teachers holding an emergency permit or waiver at any of its schools ranked in the bottom half of the Academic Performance Index shall have the amount of the school's block grant reduced by the amount of funds generated by pupils enrolled in that school.

(3) For purposes of this subdivision, "net decrease" shall be determined by comparing the number of teachers employed who hold an emergency permit or waiver at the end of the second year of implementation to the number of teachers employed who held an emergency permit or waiver prior to the implementation of the block grant.

(4) This subdivision does not apply to any school district with fewer than 2,501 units of average daily attendance that is in a county that is within the fourth through eighth class as defined in Section 1205.

(5) This subdivision is applicable only when stable funding for the Teaching As A Priority Block Grant program is provided in the annual Budget Act. For purposes of this subdivision, stable funding means no more than a 5-percent variation in funding from one fiscal year to the next.

(c) (1) Block grant funds may be used at the discretion of a school district for teacher recruitment and retention incentives with the target of reducing the number of teachers on emergency permits. Incentives shall only be used to hire and retain credentialed teachers. Teacher

recruitment and retention incentives may include, but are not limited to, all of the following:

- (A) Signing bonuses.
- (B) Improved work conditions.
- (C) Teacher compensation.
- (D) Housing subsidies.

(2) A school district receiving block grant funds pursuant to this section may offer incentives to recruit and retain credentialed teachers interested in attaining certification pursuant to Section 44253.3 or 44253.4. Those incentives may include, but are not limited to, both of the following:

(A) Reimbursements to cover the costs of examinations necessary to attain certification pursuant to Sections 44253.3 and 44253.4.

(B) Reimbursements to cover the costs of coursework necessary for preparation programs offering emphasis in certification pursuant to Sections 44253.3 and 44253.4.

(d) Funding shall be allocated to school districts on a per-pupil basis for pupils enrolled in schools ranked in the bottom half of the Academic Performance Index pursuant to Article 2 (commencing with Section 52051) of Chapter 6.1. Within the bottom half of the academic performance index, schools ranked in deciles 1, 2, and 3 shall receive $1\frac{1}{2}$ times the funding per pupil of schools ranked in deciles 4 and 5. No less than the amount of funding generated by pupils in schools ranked in deciles 1, 2, and 3 shall be expended in those schools.

(e) School districts shall apply to the department on behalf of their schools. The district application shall contain information that is specific to each school. Applications shall contain baseline information on the number of teachers with waivers or emergency permits at each school in accordance with subdivision (c).

(f) School districts that participate in the program established in this section shall be encouraged to participate in regional teacher recruitment centers operated by consortia pursuant to Section 44751.

(g) Funds appropriated for the purposes of this chapter shall supplement, and not supplant, existing efforts to recruit and retain fully credentialed teachers in the school district.

(h) The State Board of Education shall submit an evaluation of the program created by this chapter to the Legislature by January 1, 2004.

SEC. 67. Section 44830.3 of the Education Code is amended to read:

44830.3. (a) The governing board of any school district that maintains kindergarten or grades 1 to 12, inclusive, classes in bilingual education, or special education programs for pupils with mild and moderate disabilities may, in consultation with an accredited institution of higher education offering an approved program of pedagogical

teacher preparation, employ persons authorized by the Commission on Teacher Credentialing to provide service as district interns to provide instruction to pupils in those grades or classes as a classroom teacher. The governing board shall require that each district intern be assisted and guided by a certificated employee selected through a competitive process adopted by the governing board after consultation with the exclusive teacher representative unit or by personnel employed by institutions of higher education to supervise student teachers. These certificated employees shall possess valid certification at the same level, or of the same type, of credential as the district interns they serve.

(b) The governing board of each school district employing district interns shall develop and implement a professional development plan for district interns in consultation with an accredited institution of higher education offering an approved program of pedagogical preparation. The professional development plan shall include all of the following:

(1) Provisions for an annual evaluation of the district intern.

(2) As the governing board determines necessary, a description of courses to be completed by the district intern, if any, and a plan for the completion of preservice or other clinical training, if any, including student teaching.

(3) Mandatory preservice training for district interns tailored to the grade level or class to be taught, through either of the following options:

(A) One hundred twenty clock hours of preservice training and orientation in the aspects of child development, classroom organization and management, pedagogy, and methods of teaching the subject field or fields in which the district intern will be assigned, which training and orientation period shall be under the direct supervision of an experienced permanent teacher. In addition, persons holding district intern certificates issued by the commission pursuant to Section 44325 shall receive orientation in methods of teaching pupils with mild and moderate disabilities. At the conclusion of the preservice training period, the permanent teacher shall provide the district with information regarding the area that should be emphasized in the future training of the district intern.

(B) The successful completion, prior to service by the intern in any classroom, of six semester units of coursework from a regionally accredited college or university, designed in cooperation with the school district to provide instruction and orientation in the aspects of child development and the methods of teaching the subject matter or matters in which the district intern will be assigned.

(4) Instruction in child development and the methods of teaching during the first semester of service for district interns teaching in kindergarten or grades 1 to 6, inclusive, including bilingual education classes and, for persons holding district intern certificates issued by the

commission pursuant to Section 44325, special education programs for pupils with mild and moderate disabilities at those levels.

(5) Instruction in the culture of and methods of teaching bilingual children during the first year of service for district interns teaching children in bilingual classes and, for persons holding district intern certificates issued by the commission pursuant to Section 44325, instruction in the etiology of and methods of teaching children with mild and moderate disabilities.

(6) Any other criteria that may be required by the governing board.

(7) In addition to the requirements set forth in paragraphs (1) to (6), inclusive, the professional development plan for district interns teaching in special education programs for pupils with mild and moderate disabilities also shall include 120 clock hours of mandatory training and supervised fieldwork that shall include, but not be limited to, instructional practices, and the procedures and pedagogy of both general education programs and special education programs that teach pupils with disabilities.

(8) In addition to the requirements set forth in paragraphs (1) to (6), inclusive, the professional development plan for district interns teaching bilingual classes shall also include 120 clock hours of mandatory training and orientation, which shall include, but not be limited to, instruction in subject matter relating to bilingual-crosscultural language and academic development.

(9) The professional development plan for district interns teaching in special education programs for pupils with mild and moderate disabilities shall be based on the standards adopted by the commission as provided in subdivision (a) of Section 44327.

(c) Each district intern and each district teacher assigned to supervise the district intern during the preservice period shall be compensated for the preservice period required pursuant to subparagraph (A) or (B) of paragraph (3) of subdivision (b). The compensation shall be that which is normally provided by each district for staff development or in-service activity.

(d) Upon completion of service sufficient to meet program standards and performance assessments, the governing board may recommend to the Commission on Teacher Credentialing that the district intern be credentialed in the manner prescribed by Section 44328.

SEC. 68. Section 47634 of the Education Code is amended to read: 47634. The Superintendent of Public Instruction shall annually compute a categorical block grant amount for each charter school as follows:

(a) The superintendent shall compute, as of June 30, 1999, the estimated statewide average amount of funding for other state categorical aid per unit of average daily attendance received by school

districts in 1998–99, for each of four grade level ranges: kindergarten and grades 1, 2, and 3; grades 4, 5, and 6; grades 7 and 8; and grades 9 to 12, inclusive. For purposes of this computation, other state categorical aid is limited to the following programs:

(1) The Agricultural Vocational Education Incentive Program, as set forth in Article 7.5 (commencing with Section 52460) of Chapter 9 of Part 28.

(2) Apprentice education established pursuant to Article 8 (commencing with Section 8150) of Chapter 1 of Part 6.

(3) The Beginning Teacher Support and Assessment System as set forth in Article 4.5 (commencing with Section 44279.1) of Chapter 2 of Part 25.

(4) College preparation programs as set forth in Chapter 8 (commencing with Section 60830) of Part 33, the Academic Improvement and Achievement Act as set forth in Chapter 12 (commencing with Section 11020) of Part 7, and the advanced placement program as set forth in Chapter 8.3 (commencing with Section 52240) of Part 28.

(5) Community day schools as set forth in Article 3 (commencing with Section 48660) of Chapter 4 of Part 27.

(6) The Instructional Time and Staff Development Reform Program, as set forth in Article 7.5 (commencing with Section 44579) of Chapter 3 of Part 25.

(7) The School-Based Pupil Motivation and Maintenance Program and Dropout Recovery Act, as set forth in Article 7 (commencing with Section 54720) of Chapter 9 of Part 29.

(8) The Early Intervention for School Success Program, as set forth in Article 4.5 (commencing with Section 54685) of Chapter 9 of Part 29.

(9) Education Technology pursuant to Article 15 (commencing with Section 51870.5) of Chapter 5 of Part 28.

(10) Foster youth programs pursuant to Chapter 11.3 (commencing with Section 42920) of Part 24.

(11) Gifted and talented pupil programs pursuant to Chapter 8 (commencing with Section 52200) of Part 28.

(12) The Healthy Start Support Services for Children Act, as set forth in Chapter 5 (commencing with Section 8800) of Part 6.

(13) High-Risk First-Time Offenders Program pursuant to Chapter 2 (commencing with Section 47760) of Part 26.95.

(14) The General Fund contribution to the State Instructional Material Fund pursuant to Article 3 (commencing with Section 60240) of Chapter 2 of Part 33.

(15) Intersegmental programs for kindergarten and grades 1 to 12, inclusive, funded by Item 6110-230-0001 of Section 2.00 of the Budget Act of 1998.

(16) Proposition 98 educational programs pursuant to Item 6110-231-0001 of Section 2.00 of the Budget Act of 1998.

(17) The California Mentor Teacher Program, as set forth in Section 44253.6.

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

(19) The Morgan-Hart Class Size Reduction Act of 1989, as set forth in Chapter 6.8 (commencing with Section 52080) of Part 28.

(20) Opportunity schools pursuant to Article 2 (commencing with Section 48630) of Chapter 4 of Part 27.

(21) Partnership academies pursuant to Article 5 (commencing with Section 54690) of Chapter 9 of Part 29.

(22) Mathematics staff development pursuant to Chapter 3.25 (commencing with Section 44695) and Chapter 3.33 (commencing with Section 44720) of Part 25.

(23) Improvement of elementary and secondary education pursuant to Chapter 6 (commencing with Section 52000) of Part 28.

(24) The School Community Policing Partnership Act of 1998, as set forth in Article 6 (commencing with Section 32296) of Chapter 2.5 of Part 19.

(25) The School/Law Enforcement partnership funded by Item 6110-226-0001 of Section 2.00 of the Budget Act of 1998.

(26) Specialized secondary schools pursuant to Chapter 6 (commencing with Section 58800) of Part 31.

(27) School personnel staff development and resource centers pursuant to Chapter 3.1 (commencing with Section 44670) of Part 25.

(28) Supplemental grant funding, not otherwise included in the programs described above, provided by Item 6110-230-0001 of Section 2.00 of the Budget Act of 1998.

(29) Academic progress and counseling review pursuant to Section 48431.6.

(30) The Schiff-Bustamante Standards-Based Instructional Materials Program as set forth in Chapter 3.5 (commencing with Section 60450) of Part 33.

(31) The Elementary School Intensive Reading Program, as set forth in Chapter 16 (commencing with Section 53025) of Part 28.

(32) The California Public School Library Protection Act, as set forth in Article 6 (commencing with Section 18175) of Chapter 2 of Part 11.

(33) The California Peer Assistance and Review Program for Teachers, as set forth in Article 4.5 (commencing with Section 44500) of Chapter 3 of Part 25.

(34) The State Instructional Materials Fund, as set forth in Article 3 (commencing with Section 60240) of Chapter 2 of Part 33.

(35) The Instructional Materials Funding Realignment Program, as set forth in Chapter 3.25 (commencing with Section 60420) of Part 33.

(36) Mathematics and Reading Professional Development Program, as set forth in Article 3 (commencing with Section 99230) of Chapter 5 of Part 65.

Notwithstanding any other provision of law, charter schools that have received a block grant pursuant to this section are not eligible to receive separate funding for programs enumerated in this subdivision or any other state categorical aid programs established on or after July 1, 1999, that are included in the calculation made pursuant to this subdivision and for which charter schools are not required to apply separately.

(b) For purposes of the computation prescribed by subdivision (a), other state categorical aid may not include any of the following:

(1) Programs for which a charter school is required to apply separately.

(2) Programs that support, or are provided in lieu of, capital expenses.

(3) Funding for court-ordered or voluntary desegregation programs.

(4) Special education programs.

(5) Economic Impact Aid.

(6) Lottery funds.

(c) The superintendent shall annually adjust each of the amounts computed pursuant to subdivision (a) to reflect programs that existed on or after July 1, 1999, or their successors, that are subsequently included in or deleted from the categorical block grant. The Director of Finance shall annually recalculate the cumulative percentage change required pursuant to subdivision (c) of Section 47634.5 by adjusting the base year and the budget year figures to reflect those program shifts.

(d) The superintendent shall annually adjust each of the resulting four amounts computed pursuant to subdivision (a) by the cumulative percentage change from the 1998–99 fiscal year, as annually calculated by the Director of Finance pursuant to Section 47634.5, in the total amount of state funding per unit of average daily attendance received by local educational agencies maintaining kindergarten or any of grades 1 to 12, inclusive, for purposes that apply toward meeting the requirements of Section 8 of Article XVI of the California Constitution, exclusive of funding for adult education, child development programs, special education, Economic Impact Aid, revenue limits for school districts and county offices of education, and programs for which a charter school is required to apply separately. Programs for which charter schools are required to apply separately are programs that expressly authorize or require a charter school to apply for funding.

(e) The superintendent shall multiply each of the four amounts computed in subdivision (d) by the charter school's average daily attendance in the corresponding grade level ranges.

(f) The superintendent shall compute the statewide average amount of funding per identified educationally disadvantaged pupil received by school districts in the current year pursuant to Article 2 (commencing with Section 54020) of Chapter 1 of Part 29. This amount shall be multiplied by the number of educationally disadvantaged pupils enrolled in the charter school. The resulting amount, if greater than zero, may not be less than the minimum amount of Economic Impact Aid funding to which a school district of similar size would be entitled pursuant to Section 54031. For purposes of this subdivision, a pupil who is eligible for subsidized meals pursuant to Section 49552 and is identified as an English language learner pursuant to subdivision (a) of Section 306 shall count as two pupils.

(g) The superintendent shall add the amounts computed in subdivisions (e) and (f). The resulting amount shall be the charter school's categorical block grant that the superintendent shall apportion to each charter school from funds appropriated for this purpose in the annual Budget Act or another statute.

(h) Notwithstanding any other provision of law, a charter school is not eligible to apply for funding under any of the programs the funding of which is included in the computation of the categorical block grant. The Superintendent of Public Instruction shall annually provide each charter school with a list of these programs and shall ensure that a charter school receives timely notification of the opportunity to apply for programs administered by the State Department of Education that are excluded from the categorical block grant.

(i) It is the intent of the Legislature to fully fund the categorical block grant and to appropriate additional funding that may be needed in order to compensate for unanticipated increases in average daily attendance in charter schools. In any fiscal year in which the department identifies a deficiency in the Charter School Categorical Block Grant, the department shall identify programs that are funded toward meeting the requirements of Section 8 of Article XVI of the California Constitution that will have unobligated funds for the year and the associated balances available. At the second principal apportionment, the department shall provide the Department of Finance with a list of those programs and their available balances, and the amount of the deficiency in the Charter School Categorical Block Grant. The Director of Finance shall verify the amount of the deficiency in the Charter School Categorical Block Grant and direct the Controller to transfer from those programs to the Charter School Categorical Block Grant an amount equal to the lesser of the amount available or the amount needed to fully fund the Charter School Categorical Block Grant. The Department of Finance shall request the transfer on or before July 1 and notify the Joint Legislative Budget Committee within 45 days of the transfer.

(j) Categorical block grant funding may be used for any purpose determined by the governing body of the charter school.

SEC. 69. Section 48200.7 of the Education Code is amended to read:

48200.7. (a) The State Department of Education shall identify the three lowest performing elementary schools in the Compton Unified School District for purposes of extending the school year for pupils enrolled in kindergarten or grades 1 and 2 and for those pupils in any of grades 3 to 5, inclusive, who are performing in mathematics or English language arts two or more grade levels below the grade in which those pupils are enrolled as determined under subdivision (d).

(b) Beginning with the 1998–99 school year, the Compton Unified School District may identify schools of the district, in addition to those identified pursuant to subdivision (a), that are among the lowest performing schools in the district, and may provide extended school year instruction pursuant to Section 41601.1 to any pupil enrolled in kindergarten or any of grades 1 to 12, inclusive, in a school identified pursuant to this subdivision who is performing in mathematics or English language arts at a grade level that is two or more grade levels below the grade in which that pupil is enrolled as determined pursuant to subdivision (d).

(c) Notwithstanding subdivision (b) of this section and Section 41601.1, the amount of funding claimed by the district for extended year instruction shall not in any year exceed twice the amount claimed pursuant to this section in the 1997–98 fiscal year as adjusted each year by the inflation adjustment determined pursuant to Section 42238.1.

(d) The determination that a pupil is performing two or more grade levels below the grade in which that pupil is enrolled shall be based on any combination of the following:

- (1) The California Achievement Test-Form E.
- (2) The Spanish assessment of basic education.
- (3) Proficiency tests required for graduation.
- (4) District criterion reference tests based on state curriculum guides.
- (5) The STAR test.

(e) The Compton Unified School District shall test all pupils in kindergarten and grades 1 to 12, inclusive, in its lowest performing schools identified pursuant to subdivisions (a) and (b) prior to those pupils beginning an extended school year program under this section. At the end of the school year the school district shall again test the pupils in kindergarten and grades 1 to 12, inclusive, to determine the grade level at which those pupils are performing.

(f) The department shall approve each of the following areas in each elementary school identified as high-priority pursuant to subdivision (a):

- (1) Curricula.
- (2) Testing instruments.
- (3) Schoolday length.
- (4) Teacher selection, teacher mentoring, and staff development processes.

(g) The department shall review teacher compensation, including salary and benefits, in each elementary school identified as high-priority pursuant to subdivision (a).

(h) The department shall collect data as to each of the following items for each school in subdivisions (a) and (b):

- (1) Instructional materials used by, and made available to, the school.
- (2) Teacher capacity.
- (3) Any other baseline data deemed necessary by the department.

(i) Instruction provided to pupils subject to this section during schooldays in excess of schooldays offered to other pupils shall be devoted to instruction in basic skills in mathematics and English language arts.

(j) In conjunction with the Legislative Analyst, the department shall contract for an independent evaluation to determine the effectiveness of the extended school year curriculum, instructional program, and materials provided pursuant to this section and funded pursuant to Section 41601.1 in improving pupil academic outcomes. Testing and data collection conducted pursuant to this section shall be administered under the oversight of the independent evaluator, who shall be provided with copies of all test results. Results of the evaluation shall be reported on or before January 1, 2002, to the Superintendent of Public Instruction, the Legislative Analyst, the Director of Finance, and the appropriate policy and fiscal committees of the Legislature. The Compton Unified School District shall be responsible for all costs incurred pursuant to this subdivision.

(k) A percentage of funding appropriated for purposes of this section, in an amount to be determined by the Superintendent of Public Instruction, shall be used for purposes of testing and data collecting pursuant to this section.

SEC. 70. Section 49414.5 of the Education Code is amended to read:

49414.5. (a) In the absence of a credentialed school nurse or other licensed nurse onsite at the school, each school district may provide school personnel with voluntary emergency medical training to provide emergency medical assistance to pupils with diabetes suffering from severe hypoglycemia, and volunteer personnel shall provide this emergency care, in accordance with standards established pursuant to subdivision (b) and the performance instructions set forth by the licensed health care provider of the pupil. A school employee who does not

volunteer or who has not been trained pursuant to subdivision (b) may not be required to provide emergency medical assistance pursuant to this subdivision.

(b) (1) The Legislature encourages the American Diabetes Association to develop performance standards for the training and supervision of school personnel in providing emergency medical assistance to pupils with diabetes suffering from severe hypoglycemia. The performance standards shall be developed in cooperation with the department, the California School Nurses Organization, the California Medical Association, and the American Academy of Pediatrics. Upon the development of the performance standards pursuant to this paragraph, the State Department of Health Services' Diabetes Prevention and Control Program shall approve the performance standards for distribution and make those standards available upon request.

(2) Training established pursuant to this subdivision shall include all of the following:

(A) Recognition and treatment of hypoglycemia.

(B) Administration of glucagon.

(C) Basic emergency followup procedures, including, but not limited to, calling the emergency 911 phone number and contacting, if possible, the pupil's parent or guardian and licensed health care provider.

(3) Training by a physician, credentialed school nurse, registered nurse, or certificated public health nurse according to the standards established pursuant to this section shall be deemed adequate training for the purposes of this section.

(4) (A) A school employee shall notify the credentialed school nurse assigned to the school district if he or she administers glucagon pursuant to this section.

(B) If a credentialed school nurse is not assigned to the school district, the school employee shall notify the superintendent of the school district, or his or her designee if he or she administers glucagon pursuant to this section.

(5) All materials necessary to administer the glucagon shall be provided by the parent or guardian of the pupil.

(c) In the case of a pupil who is able to self-test and monitor his or her blood glucose level, upon written request of the parent or guardian, and with authorization of the licensed health care provider of the pupil, a pupil with diabetes shall be permitted to test his or her blood glucose level and to otherwise provide diabetes self-care in the classroom, in any area of the school or school grounds, during any school-related activity, and, upon specific request by a parent or guardian, in a private location.

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

(1) "School personnel" means any one or more employees of a school district who volunteer to be trained to administer emergency medical assistance to a pupil with diabetes.

(2) "Emergency medical assistance" means the administration of glucagon to a pupil who is suffering from severe hypoglycemia.

SEC. 71. Section 49452.6 of the Education Code is amended to read:

49452.6. (a) A three-year pilot program is hereby established, whereby any school district may participate in the program if the cost of the school district's participation is covered with local funding. Participating school districts shall, in conjunction with the scoliosis screening performed pursuant to Section 49452.5, and subject to Section 49451, and in addition to the physical examinations required pursuant to Sections 100275, 124035, and 124090 of the Health and Safety Code, provide for the screening of every female pupil in grade 7 and every male pupil in grade 8 for the risk of developing type 2 diabetes mellitus. The screening shall be in accord with standards and procedures developed by the State Department of Education in consultation with the State Department of Health Services' Diabetes Control Program, and adopted as regulations by the State Board of Education. The screening shall be performed and supervised only by qualified supervisors of health as specified in Sections 44871 to 44878, inclusive, and Sections 49422 and 49452.5, or pursuant to contract with an agency authorized to perform these services by the county superintendent of schools of the county in which the district is located pursuant to Sections 1750 to 1754, inclusive, and Section 49402, Section 101425 of the Health and Safety Code, and guidelines established by the State Board of Education. The screening shall be performed only by individuals who supervise, or who are eligible to supervise, the scoliosis screening and have been trained to conduct type 2 diabetes mellitus screening.

(b) The screening process shall be noninvasive and shall include, but shall not be limited to, the following:

(1) Measuring the height and weight of the pupil to calculate the pupil's body mass index.

(2) Examining the pupil's neck for acanthosis nigricans, a dark pigmentation that may indicate a high insulin level.

(3) Documenting the pupil's ethnicity, based on existing school records. Ethnicities that have the highest risk of developing type 2 diabetes mellitus include Latino, African-American, Asian, American Indian, and Pacific Islander.

(4) Considering whether the pupil's existing health records indicate a family history of type 2 diabetes mellitus.

(c) In-service training shall be provided to any person who will be screening pupils for type 2 diabetes mellitus pursuant to this section,

unless the person has a health care license that already qualifies him or her to perform that type of screening, and shall be conducted by appropriately licensed health care providers acting within the scope of their practice who have received specialized training in screening for the risk of developing type 2 diabetes mellitus.

(d) No person screening pupils for the risk of type 2 diabetes mellitus pursuant to this section shall solicit, encourage, or advise treatment or consultation by that person, or any entity in which that person has a financial interest, for the risk of type 2 diabetes mellitus or any other condition discovered in the course of the screening.

(e) The State Department of Education, in consultation with the State Department of Health Services' Diabetes Control Program, shall select and review all educational and notification materials to be sent to the parent or guardian of any pupil suspected of being at risk for developing type 2 diabetes mellitus. Each participating school district shall provide for the notification of the parent or guardian of any pupil suspected of being at elevated risk of developing type 2 diabetes mellitus, and the notification shall be provided by mail. The notification shall be culturally and linguistically appropriate, and shall include an explanation of the meaning of being at elevated risk of developing type 2 diabetes mellitus, the significance of exercise and weight control in preventing the development of it, information on aspects of the school environment that may contribute to obesity or type 2 diabetes mellitus, information on Medi-Cal, the Healthy Families Program, the Child Health and Disability Prevention Program, and other public services available for helping with prevention, and referrals for the pupil and the pupil's parent or guardian to appropriate community resources, which shall be provided pursuant to Sections 49426 and 49456. The State Department of Health Services' Diabetes Control Program may identify for the State Department of Education information which may be distributed to parents on where health assessments and health care, including free and low-cost, may be obtained in communities across the state.

(f) A pupil shall be considered at elevated risk of developing type 2 diabetes mellitus if the pupil's body mass index is above 85 percent and the screening process conducted pursuant to subdivision (b) indicates that the pupil also meets one of the risk factors described in paragraphs (2) to (4), inclusive, of that subdivision.

(g) No action of any kind in any court of competent jurisdiction may be filed against any individual authorized by this section to supervise or give a screening, by virtue of this section.

(h) It is the intent of the Legislature that no participating healing arts licensee use the screening program for the generation of referrals or for his or her financial benefit. The Legislature does not intend to deny or

limit the freedom of choice in the selection of an appropriate health care provider for treatment or consultation.

(i) Each school district that participates in the pilot program conducted pursuant to this section shall maintain data on the numbers of pupils screened and found to be at risk of type 2 diabetes mellitus. To the extent possible, the school shall subsequently communicate with the parent or guardian of a pupil found to be at elevated risk of type 2 diabetes mellitus in order to determine the interventions, if any, that the parent or guardian has provided for the pupil. The school district shall maintain this information for the purpose of evaluation and reporting to the Legislature. Each school district that participates in the pilot program shall report to the State Department of Education by no later than June 30, 2006, regarding all of the following:

(1) Its findings concerning the extent to which the pupil population served by that school district is at risk of developing type 2 diabetes mellitus.

(2) How the data reported in paragraph (1) compare to previous assumptions about the extent to which the pupil population served by that school district is at risk of developing type 2 diabetes mellitus.

(3) Data on whether parents or guardians of pupils suspected of being at risk for developing type 2 diabetes mellitus sought any intervention as a result of the notification specified in subdivision (e).

(j) Nothing in this section applies to, or in any way precludes, the screening of pupils for type 2 diabetes mellitus by any nonparticipating school district.

(k) This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends that date.

SEC. 72. Section 52015 of the Education Code is amended to read: 52015. Each plan shall include all of the following:

(a) Curricula, instructional strategies, and materials responsive to the individual educational needs and learning styles of each pupil that enable all pupils to do all of the following:

(1) Make continuous progress and learn at a rate appropriate to their abilities.

(2) Master basic skills in language development and reading, writing, and mathematics pursuant to Sections 51215 and 51216.

(3) Develop knowledge and skills in other aspects of the curriculum, such as arts and humanities; physical, natural, and social sciences; multicultural education; physical, emotional, and mental health; consumer economics; and career education.

(4) Pursue educational interests and develop esteem for self and others, personal and social responsibility, critical thinking, and independent judgment.

Consideration shall be given to the use of community resources, such as museums, libraries, and communications media, to achieve instructional improvement objectives. In addition, consideration shall be given to the use of education technology equipment, including appropriate “technology-based materials,” as defined in Section 60017.1, in each component of the plan to achieve instructional improvement objectives, and to the utilization for this purpose of all funding resources available to the school district or the schoolsite, including state categorical education programs.

(b) Instructional and auxiliary services to meet the special needs of pupils of limited English proficiency consistent with Article 3 (commencing with Section 52160) of Chapter 7 of Part 28, including instruction in a language such pupils understand; educationally disadvantaged pupils; and pupils with exceptional abilities or needs.

(c) A staff development program for teachers, other school personnel, paraprofessionals, and volunteers as provided in Section 52019.

(d) Improvement of the classroom and school environments, including improvement of relationships between and among pupils, school personnel, parents, and the community, and reduction of the incidence among pupils of violence and vandalism.

(e) Other objectives as established by the council.

(f) The proposed expenditure of allowances provided pursuant to Article 4 (commencing with Section 52045) and of other state or local funds available to support the school improvement program.

(g) Ongoing evaluation and modification of the school improvement plan by the council, based on information regarding the following:

(1) The degree to which the school is meeting its improvement objectives as assessed by parents, teachers, other school personnel, and pupils.

(2) Pupil achievement.

(3) Improved school environment as measured by indicators such as (A) the incidence among pupils of absenteeism, suspension, expulsion, and dropouts and the incidence and costs of school violence, vandalism, and theft of school or private property while participating in school activities, (B) pupil attitudes toward school, self, and others, (C) incidence of absenteeism, resignations and requests for transfers among teachers and other school personnel, and (D) satisfaction of teachers, pupils, parents, administrators, and other school personnel with school services and decisionmaking processes.

(4) The degree to which fiscal expenditures meet the criteria of the school improvement plan.

(h) Improvement of pupil attendance, including parent awareness of the importance of regular school attendance.

SEC. 73. 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 high-priority 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 or modification of the action plan pursuant to this section or Section 52054.3.

(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 district 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 affected 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. 74. 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, 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, 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. 75. 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 high-priority 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) English language learners at the school will demonstrate increased performance based on the English language development test required by Section 60810 and the achievement tests required pursuant to Section 60640.

(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 schoolsites 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 schoolsite focused on college attendance, including programs to educate parents and guardians regarding college entrance requirements and options.

(H) Providing more bilingual personnel at the schoolsite 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. 76. 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 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 department pursuant to Chapter 749 of the Statutes of 2001, the department shall conduct a study on the issue of sustainability of funding for high-priority 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 high-priority pupils, and the impact of policies that only provide funding over a specified period of time.

(2) A description of the ongoing needs of high-priority schools, as identified in needs assessments submitted pursuant to paragraph (3) of subdivision (a) of Section 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 high-priority 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 high-priority schools after this state subsidy expires, taking into account prospects for the subsequent pupil population's incidence of poverty and low socioeconomic status.

SEC. 77. Section 52128 of the Education Code is amended to read: 52128. The State Department of Education shall contract for an independent evaluation of the Class Size Reduction Program to be completed on or before March 28, 2002. The costs of the evaluation shall be paid for from funds appropriated to the department in the Budget Act. The evaluation shall consider the data collected by school districts pursuant to subdivision (g) of Section 52123. The evaluation shall determine whether this program has been effective in improving pupil achievement and shall identify components of a successful class size reduction program. The evaluation shall be submitted to the chairpersons of the Joint Legislative Budget Committee, the Assembly Committee on Budget, the Senate Committee on Budget and Fiscal Review, the Assembly Committee on Education, and the Senate Committee on Education, and to the Governor and the Director of Finance no later than March 28, 2002.

SEC. 78. Section 60061.8 of the Education Code is amended to read:

60061.8. (a) Basic instructional materials, as defined by Section 60010, offered on or after January 1, 2005, shall comply with all of the following:

(1) Print materials shall have sharp, clear, high contrast, and highly legible fonts. Print materials designed for kindergarten shall use fonts that are at least 20 point. Print materials designed for grade 1 shall use fonts that are at least 18 point. Print materials designed for grade 2 shall use fonts that are at least 16 point.

(2) Video products designed for pupils in kindergarten and grades 1 to 12, inclusive, shall be closed-captioned, as defined by the Federal Communications Commission, except for the following:

(A) Video products or portions of video products, if any, for which the publisher does not have the rights to close-caption.

(B) Video products or portions of video products that are open-captioned, meaning that all viewers see the captioned information.

(3) (A) Internet resources and digital multimedia programs intended for use by the general population of pupils, for pupils in kindergarten and grades 1 to 12, inclusive, shall at least meet the standards for accessibility, as set forth in Section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. Sec. 794d), and regulations implementing that act as set forth in Part 1194 of Title 36 of the Code of Federal Regulations, unless meeting those standards would do any of the following:

(i) Fundamentally alter the nature of the instructional activity.

(ii) Result in those resources or programs placing an undue financial and administrative burden on the state agencies, school districts, or schools that would likely access or utilize the resources or programs, as determined by the affected agencies in collaboration with the publishers.

(iii) Cause those resources or programs to fail to meet standards otherwise required by statute or regulation.

(B) In order to facilitate access by pupils with disabilities who are progressing in the general curriculum, to the extent technologically feasible, a digital multimedia program shall allow the user to control sizing of images and fonts, speed and volume of audio, colors or contrast, or both colors and contrast, and other inherently transformable attributes, but not for modification of content, to match individual performance and abilities. If a publisher is not able to create a multimedia program that satisfies the requirements of this subparagraph, the publisher shall provide the State Department of Education, upon request, with computer files or other electronic versions of textual content of basic instructional materials compatible with braille transcription, meeting department specifications at no additional cost, and as a condition of sale.

(b) This section does not apply to basic instructional materials adopted, prior to January 1, 2005, by the state board pursuant to Section 60200, to the extent those instructional materials do not already comply with this section. A publisher of basic instructional materials adopted before January 1, 2005, may voluntarily modify those materials as may be necessary to comply with this section.

SEC. 79. Section 60640 of the Education Code, as added by Section 5 of Chapter 773 of the Statutes of 2003, is amended to read:

60640. (a) There is hereby established the Standardized Testing and Reporting Program, to be known as the STAR Program.

(b) Commencing in the 2004–05 fiscal year and each fiscal year thereafter, and from the funds available for that purpose, each school district, charter school, and county office of education shall administer to each of its pupils in grades 3 and 8 the achievement test designated by the State Board of Education pursuant to Section 60642 and shall administer to each of its pupils in grades 2 to 11, inclusive, the standards-based achievement test provided for in Section 60642.5. The State Board of Education shall establish a testing period to provide that all schools administer these tests to pupils at approximately the same time during the instructional year, except as necessary to ensure test security and to meet the final filing date.

(c) The publisher and the school district shall provide two makeup days for the testing of previously absent pupils within the testing period established by the State Board of Education in subdivision (b).

(d) The governing board of the school district may administer achievement tests in grades other than those required by subdivision (b) as it deems appropriate.

(e) Pursuant to paragraph (17) of subsection (a) of Section 1412 of Title 20 of the United States Code, individuals with exceptional needs, as defined in Section 56026, shall be included in the testing requirement of subdivision (b) with appropriate accommodations in administration, where necessary, and those individuals with exceptional needs who are unable to participate in the testing, even with accommodations, shall be given an alternate assessment.

(f) At the option of the school district, a pupil with limited English proficiency who is enrolled in any of grades 2 to 11, inclusive, may take a second achievement test in his or her primary language. Primary language tests administered pursuant to this subdivision and subdivision (g) shall be subject to the requirements of subdivision (a) of Section 60641. These primary language tests shall produce individual pupil scores that are valid and reliable. Notwithstanding any other law, the State Board of Education shall designate for use, as part of this program, a single primary language test in each language for which a test is available for grades 2 to 11, inclusive, pursuant to the process used for

designation of the assessment chosen in the 1997–98 fiscal year, as specified in Sections 60642 and 60643, as applicable.

(g) A pupil of limited English proficiency who is enrolled in any of grades 2 to 11, inclusive, shall be required to take a test in his or her primary language if a test is available, if fewer than 12 months have elapsed after his or her initial enrollment in any public school in the state.

(h) (1) The Superintendent of Public Instruction shall apportion funds to school districts to enable school districts to meet the requirements of subdivisions (b), (f), and (g).

(2) The State Board of Education shall annually establish the amount of funding to be apportioned to school districts for each test administered and shall annually establish the amount that each publisher shall be paid for each test administered under the agreements required pursuant to Section 60643. The amounts to be paid to the publishers shall be determined by considering the cost estimates submitted by each publisher each September and the amount included in the annual Budget Act, and by making allowance for the estimated costs to school districts for compliance with the requirements of subdivisions (b), (f), and (g).

(3) An adjustment to the amount of funding to be apportioned per test may not be valid without the approval of the Director of Finance. A request for approval of an adjustment to the amount of funding to be apportioned per test shall be submitted in writing to the Director of Finance and the chairpersons of the fiscal committees of both houses of the Legislature with accompanying material justifying the proposed adjustment. The Director of Finance is authorized to approve only those adjustments related to activities required by statute. The Director of Finance shall approve or disapprove the amount within 30 days of receipt of the request and shall notify the chairpersons of the fiscal committees of both houses of the Legislature of the decision.

(i) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation for the apportionments made pursuant to paragraph (1) of subdivision (h), and the payments made to the publishers under the contracts required pursuant to Section 60643 or subparagraph (C) of paragraph (1) of subdivision (a) of Section 60605 between the department and the contractor, are “General Fund revenues appropriated for school districts,” as defined in subdivision (c) of Section 41202, for the applicable fiscal year, and included within the “total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B,” as defined in subdivision (e) of Section 41202, for that fiscal year.

(j) As a condition to receiving an apportionment pursuant to subdivision (h), a school district shall report to the superintendent all of the following:

(1) The number of pupils enrolled in the school district in grades 2 to 11, inclusive.

(2) The number of pupils to whom an achievement test was administered in grades 2 to 11, inclusive, in the school district.

(3) The number of pupils in paragraph (1) who were exempted from the test at the request of their parents or guardians.

(k) This section shall become operative July 1, 2004.

SEC. 80. Section 64201 of the Education Code is amended to read:

64201. (a) The California Quality Education Commission is hereby established, to become operative on July 1, 2003, for the purpose of developing, evaluating, validating, and refining a Quality Education Model for prekindergarten through grade 12, inclusive, to provide state policymakers with adequate tools to enable them to establish the reasonable costs of schools and the best direct available resources so that the vast majority of pupils may meet academic performance standards established by the state. The work of the commission shall serve to implement the principles and direction described in the final report of the Joint Committee to Develop a Master Plan for Education, and shall identify the educational components, educational resources, and corresponding costs necessary to provide the opportunity for a quality education to every pupil.

(b) (1) The commission shall be composed of 13 members, who shall be representative of the diversity of the state population, and shall include:

(A) Leaders from business and education.

(B) Representatives of elementary schools, middle schools, and high schools.

(C) Representatives of urban districts, suburban districts, and rural districts.

(D) Representatives of the research community with experience in educational policy and best practices.

(2) Except for the first appointments to the California Quality Education Commission, a member shall serve a four-year term. A person may not be appointed to serve more than two consecutive terms. The first terms of the members first appointed to the California Quality Education Commission shall be as follows:

(A) Three shall serve a term expiring August 1, 2005.

(B) Five shall serve a term expiring August 1, 2006.

(C) Five shall serve a term expiring August 1, 2007.

(3) The commission members shall be appointed as follows:

(A) Seven members shall be appointed by the Governor and approved by the Senate. Of the seven members appointed by the Governor and approved by the Senate, one shall be a currently employed public school teacher, one shall be a currently employed public school administrator,

and one shall be a current public school board member. The terms of these members first appointed shall be staggered so that the terms of two members shall expire on August 1, 2005, the terms of two members shall expire on August 1, 2006, and the terms of three members shall expire on August 1, 2007.

(B) Two members shall be appointed by the Senate Committee on Rules. The terms of these members first appointed shall be staggered so that the term of one member shall expire on August 1, 2006, and the term of the other shall expire on August 1, 2007.

(C) Two members shall be appointed by the Speaker of the Assembly. The terms of these members first appointed shall be staggered so that the term of one member shall expire on August 1, 2006, and the term of the other shall expire on August 1, 2007.

(D) Two members shall be appointed by the Superintendent of Public Instruction. The terms of these members first appointed shall be staggered so that the term of one member shall expire on August 1, 2005, and the term of the other shall expire on August 1, 2006.

(4) (A) The commission, by majority vote of all its sitting members, shall elect its own chairperson from among its sitting members.

(B) The commission shall appoint an executive director, who shall be exempt from the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 3 of Title 2 of the Government Code), and may in its discretion remove him or her by a majority vote of all its members. The executive director shall be the secretary to the commission and the commission's chief executive officer. The executive director shall receive the salary that the commission determines, and, subject to appropriations, other prerequisites that the commission determines.

(C) Pursuant to subdivision (a) of Section 11126 of the Government Code, the commission may hold closed sessions when considering matters relating to the recruitment, appointment, employment, or removal of the executive director. Decisions made during a closed session of the commission related to the recruitment, appointment, employment, or removal of the executive director shall be made known at the next public meeting of the commission.

(5) (A) A vacancy on the commission shall be filled within 30 days by the appointing power that appointed the prior holder of the position. An appointment to fill a vacancy shall be for the remaining portion of the term of the member whom the appointee succeeds. A vacancy may not impair the right of the remaining sitting members to exercise all of the powers of the commission.

(B) A majority of the sitting members of the commission constitutes a quorum for the transaction of business.

(C) “Sitting member” means an individual who has been appointed and is currently serving on the California Quality Education Commission.

(c) The commission shall do all of the following:

(1) Identify key issues to address in developing, evaluating, validating, and refining the Quality Education Model. The commission shall develop complete descriptions of prototype schools, at least one for each of the three levels of elementary and secondary education, to form models that fairly capture the diversity of public schools in California.

(2) Determine an adequate base funding amount for each of the three prototype schools.

(3) Recommend funding adjustments to allow schools that meet certain criteria to receive additional funding beyond the base funding amount. The funding adjustments shall be limited to both of the following:

(A) A district characteristic adjustment that focuses on the extraordinary needs of certain schools due to their geographic locations, including transportation needs and weather challenges.

(B) A pupil characteristic adjustment that is limited to the following three areas:

(i) Special education programs.

(ii) Services for English language learners who have been enrolled in California public schools for less than five years.

(iii) Programs for low-income pupils.

(4) Establish a category of grants to be known as initiatives that shall be limited in duration and serve either of the following purposes:

(A) To pilot and evaluate a proposed new program at one or two schools prior to implementing the program statewide.

(B) To meet a school’s immediate but temporary needs for additional funding to mitigate the effects of an unforeseen short-term problem faced by the school.

(5) Focus on practical alternatives that are achievable within the minimum funding requirements for school districts and community college districts imposed by Section 8 of Article XVI of the California Constitution.

(6) Solicit comments, criticisms, and suggestions from professional educators, education administrators, and education policy experts relative to the elements of the Quality Education Model. The commission shall consult expert panels for advice relating to research-based, best practices most associated with high pupil achievement.

(7) Solicit public comments, criticisms, and suggestions relative to the elements of the Quality Education Model. The commission shall provide the public with information sufficient to enable interested

members of the public to understand the process being used to evaluate, validate, and refine the Quality Education Model, and the reasonable choices or options under consideration. The commission shall provide the public with information explaining the criteria and models chosen and the basis for those choices.

(8) Rely upon the most accurate available cost data, cost estimation methods, and reasonable and expert assumptions in those instances in which data are lacking. The commission shall identify data gaps, modeling assumptions, and recommendations for near-term and long-term improvement of the model.

(9) Deliver a report, comprised of the prototype models and the commission's findings and recommendations, to the Governor and Legislature no later than 12 months after the commission first convenes. The report shall include recommendations for any statutory changes to conform the existing school finance structure to the Quality Education Model proposed in the report.

(d) The commission shall, upon delivery of the report, continue as a standing commission, its members serving staggered terms, with the following responsibilities:

(1) To test the Quality Education Model's reliability, by evaluating the accuracy of the cost elements and assessing whether moneys are actually used to desired effects.

(2) To refine the means with which to account for missing elements, including intangible factors or quality indicators that affect pupil achievement and for which data are not readily available.

(3) To identify the Quality Education Model's assumptions, assess the validity of those assumptions, and improve their accuracy, especially by finding those resources and methods that successful schools embody.

(4) To develop the capacity to estimate and forecast factors, including the cost of the Quality Education Model's implementation given model refinement, the growth of applicable revenues, the pace of implementation, and the effects of the model on pupil performance.

(5) To make recommendations for improvements in the state's data-gathering systems.

SEC. 81. Section 66271.8 of the Education Code is amended to read:

66271.8. (a) The Legislature finds and declares that female students should be accorded opportunities for participation in public postsecondary educational institution athletic programs equivalent to those accorded male students.

(b) In apportioning public funds, public postsecondary educational institutions shall apportion amounts available for athletics to ensure that equitable amounts will be allocated for all students, except that allowances may be made for differences in the costs of various athletic

programs. Notwithstanding any other provision of law, no public funds shall be used in connection with any athletic program conducted under the auspices of a public postsecondary educational institution, or any student organization within the postsecondary educational institution, that does not provide equivalent opportunity to both sexes for participation and use of facilities. The factors considered when determining whether an educational institution has provided equivalent opportunity include, but are not limited to, all of the following:

(1) Whether the selection of sports and levels of competition offered effectively accommodate the athletic interests and abilities of members of both sexes.

(2) The provision of equipment and supplies.

(3) Scheduling of games and practice times.

(4) Selection of the season for a sport.

(5) Location of the games and practices.

(6) Compensation for coaches.

(7) Travel arrangements.

(8) Per diem.

(9) Locker rooms.

(10) Practice and competitive facilities.

(11) Medical services.

(12) Housing facilities.

(13) Dining facilities.

(14) Scholarships.

(15) Publicity.

(c) Whether a postsecondary educational institution has effectively accommodated the athletic interests and abilities of members of both sexes shall be assessed in any one of the following ways:

(1) Whether intercollegiate level participation opportunities for male and female students are provided in numbers substantially proportionate to their respective enrollments.

(2) Where the members of one sex have been and are underrepresented among intercollegiate athletes, whether the institution can show a history and continuing practice of program expansion that is demonstrably responsive to the developing interest and abilities of the members of that sex.

(3) Where the members of one sex are underrepresented among intercollegiate athletes, and the institution cannot show a history and continuing practice of program expansion as required in paragraph (2), whether the institution can demonstrate that the interests and abilities of the members of that sex have been fully and effectively accommodated by the present program.

(d) Nothing in this section shall be construed to invalidate any existing consent decree or any other settlement agreement entered into

by an educational institution to address gender equity in athletic programs.

(e) Nothing in this section shall be construed to require a public postsecondary educational institution to require competition between male and female students in school-sponsored athletic programs.

(f) If an educational institution must cut its athletic budget, the educational institution shall do so consistently with its legal obligation to comply with both state and federal gender equity laws.

(g) It is the intent of the Legislature that the three-part test articulated in subdivision (c) be interpreted as it has been in the policies and regulations of the Office of Civil Rights in effect on January 1, 2003.

SEC. 82. Section 67359.13 of the Education Code is amended to read:

67359.13. (a) Notwithstanding any other provision of law, the University of California, the California State University, and community college districts may participate in this act, if the Regents of the University of California, the Trustees of the California State University, or the governing board of each community college district, respectively, adopt a resolution approving that participation. A participating institution of higher education shall pledge a portion of the lottery revenues allocated annually from the California State Lottery Education Fund to the University of California, the California State University, and community college districts as a dedicated revenue source to repay bonds issued by the authority under the act.

(b) The University of California, the California State University, and community college districts may each pledge an amount up to the equivalent of 25 percent, but not more than 25 percent, of the allocation to the University of California, the California State University, and community college districts, respectively, in the 1996–97 fiscal year from the California State Lottery Education Fund.

(c) To the extent that the University of California, the California State University, and community college districts participate in the act, the Regents of the University of California, the Trustees of the California State University, and the governing board of each community college district, respectively, shall guarantee the repayment of bonds issued under this chapter by providing instructions to the Controller as follows:

(1) Informs the Controller of its election to participate in this act.

(2) Authorizes the Controller to pay the portion of the entity's annual allocation of funds from the California State Lottery Education Fund to the bond trustee identified by the entity for the repayment of the entity's share of the bonds issued under this chapter.

(3) Contains a transfer schedule that sets forth the amounts of funds, which shall be equal to the amount of funds pledged pursuant to subdivisions (a) and (b) of this section, to be transferred by the Controller

to the trustee from the funds to be allocated to the University of California, the California State University, or the community college district from the California State Lottery Education Fund.

SEC. 83. Section 88033 of the Education Code is amended to read:

88033. (a) Notwithstanding any other provisions of law, no minimum or maximum age limits shall be established for the employment or continuance in employment of persons as part of the classified service.

(b) Any person possessing all of the minimum qualifications for any employment shall be eligible for appointment to that employment, and no rule or policy, either written or unwritten, heretofore or hereafter adopted, shall prohibit the employment or continued employment, solely because of the age of any such person in any community college employment who is otherwise qualified therefor.

(c) No person shall be employed in community college employment while he or she is receiving a retirement allowance under any retirement system by reason of prior school or community college employment, except as provided in Article 5 (commencing with Section 21150) of Chapter 8 of Part 3 of Division 5 of Title 2 of the Government Code.

(d) Subdivision (c) shall be inapplicable to persons who were employed in the classified service of any community college district as of September 18, 1959, and who are still employed by the same district on September 15, 1961, and the rights of those persons shall be fixed and determined as of September 18, 1959, and none of these persons shall be deprived of any right to any retirement allowance or eligibility for any such allowance to which he or she would have been entitled as of that date. Any such person who, by reason of any provision of law to the contrary, has been deprived of any right to retirement allowance or eligibility for such an allowance, shall, upon the filing of application therefor, be reinstated to those rights as he or she would have had, had this subdivision been in effect on September 18, 1959.

(e) This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 3 (commencing with Section 88060).

SEC. 84. Section 89539.2 of the Education Code is amended to read:

89539.2. (a) Any party claiming that his or her request for discovery pursuant to Section 89539.1 has not been complied with may serve and file a petition to compel discovery with the Hearing Office of the State Personnel Board, naming as the respondent the party refusing or failing to comply with Section 89539.1. The petition shall state facts showing that the respondent failed or refused to comply with Section 89539.1, a description of the matters sought to be discovered, the reason or reasons why the matter is discoverable under Section 89539.1, and the

ground or grounds of the respondent's refusal so far as known to the petitioner.

(b) (1) The petition shall be served upon the respondent, and filed within 14 days after the respondent first evidenced his or her failure or refusal to comply with Section 89539.1, or within 30 days after the request was made and the party has failed to reply to the request, whichever period is longer. However, no petition may be filed within 15 days of the date set for commencement of the administrative hearing, except upon a petition and a determination by the administrative law judge of good cause. In determining good cause, the administrative law judge shall consider the necessity and reasons for the discovery, the diligence or lack of diligence of the moving party, whether the granting of the petition will delay the commencement of the administrative hearing on the date set, and the possible prejudice of the action to any party.

(2) The respondent shall have a right to file a written answer to the petition. Any answer shall be filed with the Hearing Office of the State Personnel Board and the petitioner within 15 days of service of the petition.

(3) Unless otherwise stipulated by the parties and as provided by this section, the administrative law judge shall review the petition and any response filed by the respondent, and issue a decision granting or denying the petition within 20 days after the filing of the petition. Nothing in this section shall preclude the administrative law judge from determining that an evidentiary hearing shall be conducted prior to the issuance of a decision on the petition. In the event that a hearing is ordered, the decision of the administrative law judge shall be issued within 20 days of the closing of the hearing.

(4) A party aggrieved by the decision of the administrative law judge may, within 30 days of service of the decision, file a petition to compel discovery in the superior court for the county in which the administrative hearing will be held or in the county in which the headquarters of the trustees is located. The petition shall be served on the respondent.

(c) If, from a reading of the petition, the court is satisfied that the petition sets forth good cause for relief, the court shall issue an order to show cause directed to the respondent; otherwise the court shall enter an order denying the petition. The order to show cause shall be served upon the respondent and his or her attorney of record in the administrative proceeding by personal delivery or certified mail, and shall be returnable no earlier than 10 days from its issuance nor later than 30 days after the filing of the petition. The respondent shall have the right to serve and file a written answer or other response to the petition and order to show cause.

(d) The court may, in its discretion, order the administrative proceeding stayed during the pendency of the proceeding, and, if necessary, for a reasonable time thereafter to afford the parties time to comply with the court order.

(e) If the matter sought to be discovered is under the custody or control of the respondent and the respondent asserts that the matter is not a discoverable matter under Section 89539.1, or is privileged against disclosure under Section 89539.1, the court may order lodged with it matters that are provided in subdivision (b) of Section 915 of the Evidence Code, and shall examine the matters in accordance with the provisions thereof.

(f) The court shall decide the case on the matters examined by the court in camera, the papers filed by the parties, and any oral argument and additional evidence as the court may allow.

(g) Unless otherwise stipulated by the parties, the court shall, no later than 45 days after the filing of the petition, file its order denying or granting the petition. However, the court may, on its own motion, for good cause, extend the time an additional 45 days. The order of the court shall be in writing, setting forth the matters or parts the petitioner is entitled to discover under Section 89539.1. A copy of the order shall forthwith be served by mail by the clerk upon the parties. If the order grants the petition in whole or in part, the order shall not become effective until 10 days after the date the order is served by the clerk. If the order denies relief to the petitioning party, the order shall be effective on the date it is served by the clerk.

(h) (1) The order of the superior court shall be final and, except for this subdivision, shall not be subject to review by appeal. A party aggrieved by the order, or any part thereof, may within 30 days after the service of the superior court's order serve and file in the district court of appeal for the district in which the superior court is located, a petition for a writ of mandamus to compel the superior court to set aside, or otherwise modify, its order.

(2) If a review is sought from an order granting discovery, the order of the trial court and the administrative proceeding shall be stayed upon the filing of the petition for writ of mandamus. However, the court of appeal may dissolve or modify the stay thereafter, if it is in the public interest to do so. If the review is sought from a denial of discovery, neither the trial court's order nor the administrative proceeding shall be stayed by the court of appeal except upon a clear showing of probable error.

(i) If the superior court finds that a party or his or her attorney, without substantial justification, failed or refused to comply with Section 89539.1, or, without substantial justification, filed a petition to compel discovery pursuant to this section, or, without substantial justification,

failed to comply with any order of court made pursuant to this section, the court may award court costs and reasonable attorney's fees to the opposing party. Nothing in this subdivision shall limit the power of the superior court to compel obedience to its orders by contempt proceedings.

SEC. 85. Section 94779 of the Education Code is amended to read: 94779. The bureau shall make available to members of the public, upon request, the nature and disposition of all complaints on file with the bureau against an institution.

SEC. 86. Section 94901 of the Education Code is amended to read: 94901. (a) (1) Except as provided in Section 94905, the bureau shall conduct a qualitative review and assessment of the institution. It also shall conduct a qualitative review and assessment of all programs offered except continuing education programs and programs that are exclusively avocational or recreational in nature. The review shall include the items listed in subdivision (b) of Section 94900, through a comprehensive onsite review process, performed by a qualified visiting committee impaneled by the bureau for that purpose.

(2) An institution may include some or all of its separate operating sites under one application. Alternately, it may submit separate applications for any one site or combination of sites. The satellites or branches included in either an initial or renewal application shall be considered by the bureau to comprise a separate, single institution for purposes of regulation, approval, and compliance under this chapter.

(3) The application shall include a single fee based on the number of branches, satellites, and programs included within a single application in order to cover the costs involved for those multisite and multiprogram reviews. If the application is for renewal of an existing approval, the institution need only submit information necessary to document any changes made since the time its previous application was filed with the bureau. Fees for renewal applications will be based on the actual costs involved in the administrative review process.

(b) The number of sites inspected by the bureau as part of its review process shall be subject to the following considerations:

(1) If the application for approval includes branches and satellites, the bureau shall inspect each branch and may inspect any satellite campus.

(2) If the application is for approval to operate a branch or a satellite, the bureau, in addition to inspecting the branch or satellite, also may inspect the institution operating the branch or satellite campus.

(c) The bureau may waive or modify the onsite inspection for institutions offering home study or correspondence courses. The visiting committee shall be impaneled by the bureau within 90 days of the date of the receipt of a completed application, and shall be composed of educators, and other individuals with expertise in the areas listed in

subdivision (b) of Section 94900, from degree-granting institutions legally operating within the state. Within 90 days of the receipt of the visiting committee's evaluation report and recommendations, or any reasonable extension of time not to exceed 90 days, the bureau shall take one of the following actions:

(1) If the institution is in compliance with this chapter, and has not operated within three years before the filing of the application in violation of this chapter then in effect, the bureau may grant an approval to operate not to exceed five years.

(2) If the institution is in compliance with this chapter, but has operated within three years before the filing of the application in violation of this chapter then in effect, or if the bureau determines that an unconditional grant of approval to operate is not in the public interest, the bureau may grant a conditional approval to operate subject to whatever restrictions the bureau deems appropriate. The bureau shall notify the institution of the restrictions or conditions, the basis for the restrictions or conditions, and the right to request a hearing to contest them. Conditional approval shall not exceed two years.

(3) The bureau may deny the application. If the application is denied, the bureau may permit the institution to continue offering the program of instruction to students already enrolled or may order the institution to cease instruction and provide a refund of tuition and all other charges to students.

(d) When evaluating an institution whose purpose is to advance postsecondary education through innovative methods, the visiting committee shall comprise educators who are familiar with, and receptive to, evidence bearing on the educational quality and accomplishments of those methods.

(e) The standards and procedures utilized by the bureau shall not unreasonably hinder educational innovation and competition.

(f) Each institution or instructional program offering education for entry into a health care profession in which the provider has primary care responsibilities shall offer that education within a professional degree program that shall be subject to approval by the bureau pursuant to this section.

(g) (1) If an institution is not operating in California when it applies for approval to operate for itself or a branch or satellite campus, the institution shall file with its application an operational plan establishing that the institution will satisfy the minimum standards set forth in subdivision (a) of Section 94900. The operational plan also shall include a detailed description of the institution's program for implementing the operational plan, including proposed procedures, financial resources, and the qualifications of owners, directors, officers, and administrators employed at the time of the filing of the application. The bureau may

request additional information to enable the bureau to determine whether the operational plan and its proposed implementation will satisfy these minimum standards.

(2) If the bureau determines that the operational plan satisfies the minimum standards described in subdivision (a) of Section 94900, that the institution demonstrates that it will implement the plan, and that no ground for denial of the application exists, the bureau shall grant a temporary approval to operate, subject to any restrictions the bureau reasonably deems necessary to ensure compliance with this chapter, pending a qualitative review and assessment as provided in subdivisions (a) and (b) of Section 94900. The bureau shall inspect, pursuant to subdivision (a) of this section, the institution, or branch or satellite campus if approval is sought for that campus between 90 days and 180 days after operation has begun under the temporary approval to operate. Following receipt of the visiting committee's or the bureau staff's report, the bureau shall act as provided in paragraph (1), (2), or (3) of subdivision (c).

(h) If at any time the bureau determines that an institution has deviated from the standards for approval, the bureau, after identifying for the institution the areas in which it has deviated from the standards, and after giving the institution due notice and an opportunity to be heard, may place the institution on probation for a prescribed period of time, not to exceed 24 calendar months. During the period of probation, the institution shall be subject to special monitoring. The conditions for probation may include the required submission of periodic reports, as prescribed by the bureau, and special visits by authorized representatives of the bureau to determine progress toward total compliance. If, at the end of the probationary period, the institution has not taken steps to eliminate the cause or causes for its probation to the satisfaction of the bureau, the bureau may revoke the institution's approval to award degrees and provide notice to the institution to cease its operations.

(i) An institution may not advertise itself as an approved institution unless each degree program offered by the institution has been approved in accordance with the requirements of this section. The bureau shall review all operations of the institution pertaining to California degrees, both within and outside of California. The bureau may conduct site visits outside of California, including the institution's foreign operations, when the bureau deems these visits to be necessary. The institution shall be responsible for the expenses of the visiting team members including the bureau's staff liaison. The bureau may authorize any institution approved to issue degrees under this section to issue certificates for the completion of courses of study that are within the institution's approved degree-granting programs.

(j) An institution shall not offer any educational program or degree title that was not offered by the institution at the time the institution applied for approval to operate, and shall not offer any educational program or degree title at a campus that had not offered the program or degree title at the time the institution applied for approval to operate that campus, unless the bureau first approves the offering of the program or degree title after determining that it satisfies the minimum standards established by this section.

SEC. 87. Section 94944 of the Education Code is amended to read:

94944. (a) The Student Tuition Recovery Fund is continued in existence. All assessments collected pursuant to Section 94945 shall be credited to this fund, along with any interest on the moneys, for the administration of this article. Notwithstanding Section 13340 of the Government Code, the moneys in the fund are continuously appropriated to the bureau without regard to fiscal years for the purposes of this chapter. The fund shall consist of a degree-granting postsecondary educational institution account, a vocational educational institution account, and an account for institutions approved under any provision of this chapter that charge each enrolled student a total charge, as defined in subdivision (k) of Section 94852, of less than one thousand dollars (\$1,000), for the purpose of relieving or mitigating pecuniary losses suffered by any California resident who is a student of an approved institution and who meets either of the following conditions:

(1) (A) The student was enrolled in an institution, prepaid tuition, and suffered loss as a result of any of the following:

(i) The closure of the institution.

(ii) The institution's failure to pay refunds or charges on behalf of a student to a third party for license fees or any other purposes, or to provide equipment or materials for which a charge was collected within 180 days before the closure of the institution.

(iii) The institution's failure to pay or reimburse loan proceeds under a federally guaranteed student loan program as required by law or to pay or reimburse proceeds received by the institution prior to closure in excess of tuition and other costs.

(iv) The institution's breach or anticipatory breach of the agreement for the course of instruction.

(v) A decline in the quality or value of the course of instruction within the 30-day period before the closure of the institution or, if the decline began before that period, the period of decline determined by the bureau.

(vi) The commission of a fraud by the institution during the solicitation or enrollment of, or during the program participation of, the student.

(B) For the purposes of this section, "closure" includes closure of a branch or satellite campus, the termination of either the correspondence

or residence portion of a home study or correspondence course, and the termination of a course of instruction for some or all of the students enrolled in the course before the time these students were originally scheduled to complete it, or before a student who has been continuously enrolled in a course of instruction has been permitted to complete all the educational services and classes that comprise the course.

(2) The student obtained a judgment against the institution for any violation of this chapter, and the student certifies that the judgment cannot be collected after diligent collection efforts. A court judgment obtained under this paragraph shall be paid in accordance with paragraph (1) of subdivision (f), unless the judgment indicates that a lesser amount is due.

(b) Payments from the fund to any student shall be made from the appropriate account within the fund, as determined by the type of institution into which the student has paid his or her fees, and shall be subject to any regulations and conditions prescribed by the bureau.

(c) (1) (A) The institution shall provide to the bureau, at the time of the institution's closure, the names and addresses of persons who were students of an institution within 60 days prior to its closure, and shall notify these students, within 30 days of the institution's closure, of their rights under the fund and how to apply for payment. If the institution fails to comply with this subdivision, the bureau shall attempt to obtain the names and addresses of these students and shall notify them, within 90 days of the institution's closure, of their rights under the fund and how to apply for payment. This notice shall include the explanation and the claim form described in subparagraph (B).

(B) The bureau shall develop a form in English and Spanish fully explaining a student's rights, which shall be used by the institution or the bureau to comply with the requirements of subparagraph (A). The form shall include, or be accompanied by, a claim application and an explanation of how to complete the application.

(2) (A) If an institution fails to comply with paragraph (1), the bureau shall order the institution, or any person responsible for the failure to provide notice as required by paragraph (1), to reimburse the bureau for all reasonable costs and expenses incurred in notifying students as required in paragraph (1). In addition, the bureau may impose a penalty of up to five thousand dollars (\$5,000) against the institution and any person found responsible for the failure to provide notice. The amount of the penalty shall be based on the degree of culpability and the ability to pay. Any order may impose joint and several liability. Before any order is made pursuant to this paragraph, the bureau shall provide written notice to the institution and any person from whom the bureau seeks recovery of the bureau's claim and of the right to request a hearing within 30 days of the service of the notice.

(B) If a hearing is not requested within 30 days of service of the notice, the bureau may order payment in the amount of the claim. If a hearing is requested, Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code shall apply, and the bureau shall have all of the powers therein prescribed. Within 30 days after the effective date of the issuance of an order, the bureau may enforce the order in the same manner as if it were a money judgment pursuant to Title 9 (commencing with Section 680.010) of Part 2 of the Code of Civil Procedure. All penalties and reimbursements paid pursuant to this section shall be deposited in the Private Postsecondary and Vocational Education Administration Fund established pursuant to Section 94932 or any successor fund.

(d) (1) Students entitled to payment as provided in paragraph (1) of subdivision (a) shall file with the bureau a verified application indicating each of the following:

(A) The student's name, address, telephone number, and social security number.

(B) If any portion of the tuition was paid from the proceeds of a loan, the name of the lender, and any state or federal agency that guaranteed or reinsured the loan.

(C) The amount of the paid tuition, the amount and description of the student's loss, and the amount of the student's claim.

(D) The date the student started and ceased attending the institution.

(E) A description of the reasons the student ceased attending the institution.

(F) If the student ceased attending because of a breach or anticipatory breach or because of the decline in the quality or value of the course of instruction as described in clause (v) of subparagraph (A) of paragraph (1) of subdivision (a), a statement describing in detail the nature of the loss incurred. The application shall be filed within one year from the date of the notice, as described in paragraph (1) of subdivision (c). If no notice is received by the student from the bureau soon after the school closes, the application shall be filed within four years of the institution's closure, or within two years of the student's or former student's receipt of an explanation of his or her rights and a claim form, whichever of those claim periods expires later. The two-year claim period shall begin on the day the student or former student receives from the bureau both an explanation regarding how to file a claim and a claim application, as provided in subparagraph (B) of paragraph (1) of subdivision (c), or on the day the second of the two documents is received, if they are received on different dates. If the claimant's primary language is Spanish, the notice and explanation shall be sent in Spanish.

(G) Nothing in this subdivision shall preclude the filing of a single, unified application that aggregates the claims of similarly situated students.

(2) (A) Students entitled to payment as provided in paragraph (2) of subdivision (a) shall file with the bureau a verified application indicating the student's name, address, telephone number, and social security number, the amount of the judgment obtained against the institution, a statement that the judgment cannot be collected, and a description of the efforts attempted to enforce the judgment. The application shall be accompanied by a copy of the judgment and any other documents indicating the student's efforts made to enforce the judgment.

(B) The application shall be filed within two years after the date upon which the judgment became final.

(3) The bureau may require additional information designed to facilitate payment to entitled students. The bureau shall waive the requirement that a student provide all of the information required by this subdivision if the bureau has the information or the information is not reasonably necessary for the resolution of a student's claim.

(4) Nothing in this subdivision shall be construed to preclude the filing of a single, unified application that aggregates the claims of similarly situated students.

(e) Within 60 days of the bureau's receipt of a completed application for payment, the bureau shall pay the claim from the Student Tuition Recovery Fund or deny the claim. The bureau, for good cause, may extend the time period for up to an additional 90 days to investigate the accuracy of the claim.

(f) (1) If the bureau pays the claim, the amount of the payment shall be (A) the greater of either (i) the total guaranteed student loan debt incurred by the student in connection with attending the institution, or (ii) the total of the student's tuition and the cost of equipment and materials related to the course of instruction, less (B) the amount of any refund, reimbursement, indemnification, restitution, compensatory damages, settlement, debt forgiveness, discharge, cancellation, or compromise, or any other benefit received by, or on behalf of, the student before the bureau's payment of the claim in connection with the student loan debt or cost of tuition, equipment, and materials. The payment also shall include the amount the institution collected and failed to pay to third parties on behalf of the student for license fees or any other purpose. However, if the claim is based solely on the circumstances described in subparagraph (B) or (C) of paragraph (1) of subdivision (a), the amount of the payment shall be the amount of the loss suffered by the student. In addition to the amount determined under this paragraph, the amount of the payment shall include all interest and collection costs on all

student loan debt incurred by the student in connection with attending the institution.

(2) The bureau may reduce the total amount specified in paragraph (1) by the value of the benefit, if any, of the education obtained by the student before the closure of the institution. If the bureau makes any reduction pursuant to this paragraph, the bureau shall notify the claimant in writing, at the time the claim is paid, of the basis of its decision and provide a brief explanation of the reasons upon which the bureau relied in computing the amount of the reduction.

(3) No reduction shall be made to the amount specified in paragraph (1) if (A) the student did not receive adequate instruction to obtain the training, skills, or experience, or employment to which the instruction was represented to lead, (B) credit for the instruction obtained by the student is not generally transferable to other institutions approved by the bureau, or (C) the institution or one of its representatives fraudulently misrepresented to students the likely starting salary or job availability, or both, after training.

(4) The amount of the payment determined under this subdivision is not dependent on the amount of the refund to which the student would have been entitled after a voluntary withdrawal.

(5) Upon payment of the claim, all of the student's rights against the institution shall be deemed assigned to the bureau to the extent of the amount of the payment.

(g) (1) The bureau shall negotiate with a lender, holder, guarantee agency, or the United States Department of Education for the full compromise or writeoff of student loan obligations to relieve students of loss and thereby reduce the amount of student claims.

(2) The bureau, with the student's permission, may pay a student's claim directly to the lender, holder, guarantee agency, or the United States Department of Education under a federally guaranteed student loan program only if the payment of the claim fully satisfies all of the student's loan obligations related to attendance at the institution for which the claim was filed.

(3) Notwithstanding subdivision (e), the bureau may delay the payment of a claim pending the resolution of the bureau's attempt to obtain a compromise or writeoff of the claimant's student loan obligation. However, the bureau shall immediately pay the claim if any adverse action that is not stayed is taken against the claimant, including the commencement of a civil or administrative action, tax offset, the enforcement of a judgment, or the denial of any government benefit.

(4) The bureau shall make every reasonable effort to obtain a loan discharge for an eligible student in lieu of reimbursing that student in whole or in part from the fund pursuant to federal student loan laws and regulations.

(5) Whenever the bureau receives from a student a completed application for payment from the Student Tuition Recovery Fund, the bureau shall, as soon as is practicable, cause to be delivered to that student a written notice specifying, in plain English, the rights of a student under this section.

(h) (1) If the bureau denies the claim, or reduces the amount of the claim pursuant to paragraph (2) of subdivision (f), the bureau shall notify the student of the denial or reduction and of the student's right to request a hearing within 60 days or any longer period permitted by the bureau. If a hearing is not requested within 60 days or any additional period reasonably requested by the student, the bureau's decision shall be final. If a hearing is requested, Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code shall apply.

(2) It is the intent of the Legislature that, when a student is enrolled in an institution that closes prior to the completion of the student's program, the student shall have the option for a teach-out at another institution approved by the bureau. The bureau shall seek to promote teach-out opportunities wherever possible and shall inform the student of his or her rights, including payment from the fund, transfer opportunities, and available teach-out opportunities, if any.

(i) This section applies to all claims filed or pending under former Chapter 7 (commencing with Section 94700) after January 1, 1990.

(j) Once the bureau has determined that a student claim is eligible for payment under this section and intends to use the Student Tuition Recovery Fund, in whole or in part, to satisfy the eligible claim, the bureau shall document its negotiations with the relevant lender, holder or guarantee agency, the United States Department of Education, or the applicable state agency. The bureau shall prepare a written summary of the parties and results of the negotiations, including the amounts offered and accepted, the discounts requested and granted, and any other information that is available to any party that files a request for this information with the bureau.

SEC. 88. Section 94990 of the Education Code is amended to read: 94990. The bureau is subject to the sunset review process conducted by the Joint Legislative Sunset Review Committee pursuant to Chapter 1 (commencing with Section 473) of Division 1.2 of the Business and Professions Code. Notwithstanding that this chapter does not specify that it will become inoperative on a specified date, the analyses, reports, public hearings, evaluations, and determinations required to be prepared, conducted, and made pursuant to Chapter 1 (commencing with Section 473) of Division 1.2 of the Business and Professions Code shall be prepared, conducted, and made in 2002 and every four years thereafter as long as this chapter is operative.

SEC. 89. Section 99235 of the Education Code is amended to read:

99235. (a) The Superintendent of Public Instruction shall notify local educational agencies that they are eligible to receive funding to provide instructional aides and paraprofessionals who directly assist with classroom instruction in mathematics and reading with professional development training in mathematics and reading, in an amount equal to one thousand dollars (\$1,000) per qualifying instructional aide. Funding will be provided to local educational agencies on a first-come-first-served basis. A local educational agency that chooses to participate in the program is eligible to receive funding for no greater than the percentage calculated in accordance with provisions of an item of appropriation in the annual Budget Act for its instructional aides and paraprofessionals. However, the statewide total number of instructional aides and paraprofessionals who directly assist with classroom instruction in mathematics and reading served under this program may not exceed 9,600 over the two fiscal years.

(b) Of the incentive provided pursuant to subdivision (a), a local educational agency may use not more than five hundred dollars (\$500) of the per instructional aide and paraprofessional, who directly assist with classroom instruction in mathematics and reading, amount to provide an individual instructional aid stipend.

SEC. 90. Section 11105 of the Elections Code is amended to read:

11105. Upon each submission, if fewer than 500 signatures are submitted to the elections official, he or she shall count the number of signatures and submit those results to the Secretary of State. If 500 or more signatures are submitted, the elections official may verify, using a random sampling technique, either 3 percent of the signatures submitted, or 500, whichever is less. The random sample of signatures to be verified shall be drawn in such a manner that every signature filed with the elections official shall be given an equal opportunity to be included in the sample. Upon completion of the signature verification, the elections official shall report the results to the Secretary of State pursuant to Section 11104.

SEC. 91. Section 14310 of the Elections Code is amended to read:

14310. (a) At all elections, a voter claiming to be properly registered but whose qualification or entitlement to vote cannot be immediately established upon examination of the index of registration for the precinct or upon examination of the records on file with the county elections official, shall be entitled to vote a provisional ballot as follows:

(1) An election official shall advise the voter of the voter's right to cast a provisional ballot.

(2) The voter shall be provided a provisional ballot, written instructions regarding the process and procedures for casting the provisional ballot, and a written affirmation regarding the voter's

registration and eligibility to vote. The written instructions shall include the information set forth in subdivisions (c) and (d).

(3) The voter shall be required to execute, in the presence of an elections official, the written affirmation stating that the voter is eligible to vote and registered in the county where the voter desires to vote.

(b) Once voted, the voter's ballot shall be sealed in a provisional ballot envelope, and the ballot in its envelope shall be deposited in the ballot box. All provisional ballots voted shall remain sealed in their envelopes for return to the elections official in accordance with the elections official's instructions. The provisional ballot envelopes specified in this subdivision shall be a color different than the color of, but printed substantially similar to, the envelopes used for absentee ballots, and shall be completed in the same manner as absentee envelopes.

(c) (1) During the official canvass, the elections official shall examine the records with respect to all provisional ballots cast. Using the procedures that apply to the comparison of signatures on absentee ballots, the elections official shall compare the signature on each provisional ballot envelope with the signature on the voter's affidavit of registration. If the signatures do not compare, the ballot shall be rejected. A variation of the signature caused by the substitution of initials for the first or middle name, or both, shall not invalidate the ballot.

(2) Provisional ballots shall not be included in any semiofficial or official canvass, except upon: (A) the elections official's establishing prior to the completion of the official canvass, from the records in his or her office, the claimant's right to vote; or (B) the order of a superior court in the county of the voter's residence. A voter may seek the court order specified in this paragraph regarding his or her own ballot at any time prior to completion of the official canvass. Any judicial action or appeal shall have priority over all other civil matters.

(3) The provisional ballot of a voter who is otherwise entitled to vote shall not be rejected because the voter did not cast his or her ballot in the precinct to which he or she was assigned by the elections official.

(A) If the ballot cast by the voter contains the same candidates and measures on which the voter would have been entitled to vote in his or her assigned precinct, the elections official shall count the votes for the entire ballot.

(B) If the ballot cast by the voter contains candidates or measures on which the voter would not have been entitled to vote in his or her assigned precinct, the elections official shall count only the votes for the candidates and measures on which the voter was entitled to vote in his or her assigned precinct.

(d) The Secretary of State shall establish a free access system that any voter who casts a provisional ballot may access to discover whether the

voter's provisional ballot was counted and, if not, the reason why it was not counted.

(e) The Secretary of State may adopt appropriate regulations for purposes of ensuring the uniform application of this section.

(f) This section shall apply to any absent voter described by Section 3015 who is unable to surrender his or her unvoted absent voter's ballot.

(g) Any existing supply of envelopes marked "special challenged ballot" may be used until the supply is exhausted.

SEC. 92. Section 18541 of the Elections Code is amended to read:

18541. (a) No person shall, with the intent of dissuading another person from voting, within 100 feet of a polling place, do any of the following:

(1) Solicit a vote or speak to a voter on the subject of marking his or her ballot.

(2) Place a sign relating to voters' qualifications or speak to a voter on the subject of his or her qualifications except as provided in Section 14240.

(3) Photograph, videotape, or otherwise record a voter entering or exiting a polling place.

(b) Any violation of this section is punishable by imprisonment in a county jail for not more than 12 months, or in the state prison. Any person who conspires to violate this section is guilty of a felony.

(c) For purposes of this section, 100 feet means a distance of 100 feet from the room or rooms in which voters are signing the roster and casting ballots.

SEC. 93. 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, clergy-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. 94. Section 956.5 of the Evidence Code, as amended by Chapter 765 of the Statutes of 2003, is amended to read:

956.5. There is no privilege under this article if the lawyer reasonably believes that disclosure of any confidential communication relating to representation of a client is necessary to prevent a criminal act that the lawyer reasonably believes is likely to result in the death of, or substantial bodily harm to, an individual.

SEC. 95. Section 4962 of the Family Code is amended to read:

4962. (a) If all of the parties who are individuals reside in this state and the child does not reside in the issuing state, a tribunal of this state has jurisdiction to enforce and to modify the issuing state's child support order in a proceeding to register that order.

(b) A tribunal of this state exercising jurisdiction under this section shall apply the provisions of Articles 1 (commencing with Section 4900) and 2 (commencing with Section 4905), this article, and the procedural and substantive law of this state to the proceeding for enforcement or modification. Articles 3 (commencing with Section 4915) to 5 (commencing with Section 4940), inclusive, and Articles 7 (commencing with Section 4965) and 8 (commencing with Section 4970) do not apply.

SEC. 96. Section 17600 of the Family Code is amended to read:

17600. (a) The Legislature finds and declares all of the following:

(1) The Legislative Analyst has found that county child support enforcement programs provide a net increase in revenues to the state.

(2) The state has a fiscal interest in ensuring that county child support enforcement programs perform efficiently.

(3) The state does not provide information to counties on child support enforcement programs, based on common denominators that would facilitate comparison of program performance.

(4) Providing this information would allow county officials to monitor program performance and to make appropriate modifications to improve program efficiency.

(5) This information is required for effective management of the child support program.

(b) Except as provided in this subdivision commencing with the 1998–99 fiscal year, and for each fiscal year thereafter, each county that is participating in the state incentive program described in Section 17704 shall provide to the department, and the department shall compile from this county child support information, monthly and annually, all of the following performance-based data, as established by the federal incentive funding system, provided that the department may revise the data required by this paragraph in order to conform to the final federal incentive system data definitions:

(1) One of the following data relating to paternity establishment, as required by the department, provided that the department shall require all counties to report on the same measurement:

(A) The total number of children in the caseload governed by Part D (commencing with Section 451) of Title IV of the federal Social Security Act (42 U.S.C. Sec. 651 et seq.), as of the end of the federal fiscal year, who were born to unmarried parents for whom paternity was established or acknowledged, and the total number of children in that caseload, as of the end of the preceding federal fiscal year, who were born to unmarried parents.

(B) The total number of minor children who were born in the state to unmarried parents for whom paternity was established or acknowledged during a federal fiscal year, and the total number of children in the state born to unmarried parents during the preceding calendar year.

(2) The number of cases governed by Part D (commencing with Section 451) of Title IV of the federal Social Security Act (42 U.S.C. Sec. 651 et seq.) during the federal fiscal year and the total number of those cases with support orders.

(3) The total dollars collected during the federal fiscal year for current support in cases governed by Part D (commencing with Section 451) of Title IV of the federal Social Security Act (42 U.S.C. Sec. 651 et seq.) and the total number of dollars owing for current support during that federal fiscal year in cases governed by those provisions.

(4) The total number of cases for the federal fiscal year governed by Part D (commencing with Section 451) of Title IV of the federal Social Security Act (42 U.S.C. Sec. 651 et seq.) in which payment was being made toward child support arrearages and the total number of cases for that fiscal year governed by these federal provisions that had child support arrearages.

(5) The total number of dollars collected and expended during a federal fiscal year in cases governed by Part D (commencing with Section 451) of Title IV of the federal Social Security Act (42 U.S.C. Sec. 651 et seq.).

(6) The total amount of child support dollars collected during a federal fiscal year, and, if and when required by federal law, the amount of these collections broken down by collections distributed on behalf of current recipients of federal Temporary Assistance for Needy Families block grant funds or federal foster care funds, on behalf of former recipients of federal Temporary Assistance for Needy Families block grant funds or federal foster care funds, or on behalf of persons who have never been recipients of these federal funds.

(c) In addition to the information required by subdivision (b), the department shall collect, on a monthly basis, from each county that is participating in the state incentive program described in Section 17704, information on the local child support agency for each federal fiscal year, and shall report semiannually on all of the following performance measurements:

(1) The percentage of cases with collections of current support. This percentage shall be calculated by dividing the number of cases with an order for current support by the number of those cases with collections of current support. The number of cases with support collected shall include only the number of cases actually receiving a collection, not the number of payments received. Cases with a medical support order that do not have an order for current support may not be counted.

(2) The average amount collected per case for all cases with collections.

(3) The percentage of cases that had a support order established during the period. A support order shall be counted as established only when the appropriate court has issued an order for child support, including an order for temporary child support, or an order for medical support.

(4) The total cost of administering the local child support agency, including the federal, state, and county share of the costs, and the federal and state incentives received by each county. The total cost of administering the program shall be broken down by the following:

(A) The direct costs of the program, broken down further by total employee salaries and benefits, a list of the number of employees broken down into at least the following categories: attorneys, administrators, caseworkers, investigators, and clerical support; contractor costs; space charges; and payments to other county agencies. Employee salaries and numbers need only be reported in the annual report.

(B) The indirect costs, showing all overhead charges.

(5) In addition, the local child support agency shall report monthly on measurements developed by the department that provide data on the following:

(A) Locating obligors.

(B) Obtaining and enforcing medical support.

(C) Providing customer service.

(D) Any other measurements that the director determines to be an appropriate determination of a local child support agency's performance.

(6) A county may apply for an exemption from any or all of the reporting requirements of this subdivision for a fiscal year by submitting an application for the exemption to the department at least three months prior to the commencement of the fiscal year or quarter for which the exemption is sought. A county shall provide a separate justification for each data element under this subdivision for which the county is seeking an exemption and the cost to the county of providing the data. The department may not grant an exemption for more than one year. The department may grant a single exemption only if both of the following conditions are met:

(A) The county cannot compile the data being sought through its existing automated system or systems.

(B) The county cannot compile the data being sought through manual means or through an enhanced automated system or systems without significantly harming the child support collection efforts of the county.

(d) After implementation of the statewide automated system, in addition to the information required by subdivision (b), the Department of Child Support Services shall collect, on a monthly basis, from each county that is participating in the state incentive program described in Section 17704, information on the county child support enforcement program beginning with the 1998–99 fiscal year or a later fiscal year, as appropriate, and for each subsequent fiscal year, and shall report semiannually on all of the following measurements:

(1) For each of the following support collection categories, the number of cases with support collected shall include only the number of cases actually receiving a collection, not the number of payments received.

(A) (i) The number of cases with collections for current support.

(ii) The number of cases with arrears collections only.

(iii) The number of cases with both current support and arrears collections.

(B) For cases with current support only due:

(i) The number of cases in which the full amount of current support owed was collected.

(ii) The number of cases in which some amount of current support, but less than the full amount of support owed, was collected.

(iii) The number of cases in which no amount of support owed was collected.

(C) For cases in which arrears only were owed:

(i) The number of cases in which all arrears owed were collected.

(ii) The number of cases in which some amount of arrears, but less than the full amount of arrears owed, were collected.

(iii) The number of cases in which no amount of arrears owed were collected.

(D) For cases in which both current support and arrears are owed:

(i) The number of cases in which the full amount of current support and arrears owed were collected.

(ii) The number of cases in which some amount of current support and arrears, but less than the full amount of support owed, were collected.

(iii) The number of cases in which no amount of support owed was collected.

(E) The total number of cases in which an amount was due for current support only.

(F) The total number of cases in which an amount was due for both current support and arrears.

(G) The total number of cases in which an amount was due for arrears only.

(H) For cases with current support due, the number of cases without orders for medical support and the number of cases with an order for medical support.

(2) The number of alleged fathers or obligors who were served with a summons and complaint to establish paternity or a support order, and the number of alleged fathers or obligors for whom it is required that paternity or a support order be established. In order to be counted under this paragraph, the alleged father or obligor shall be successfully served with process. An alleged father shall be counted under this paragraph only once if he is served with process simultaneously for both a paternity and a support order proceeding for the same child or children. For purposes of this paragraph, a support order shall include a medical support order.

(3) The number of new asset seizures or successful initial collections on a wage assignment for purposes of child support collection. For purposes of this paragraph, a collection made on a wage assignment shall be counted only once for each wage assignment issued.

(4) The number of children requiring paternity establishment and the number of children for whom paternity has been established during the period. Paternity may only be established once for each child. Any child for whom paternity is not at issue shall not be counted in the number of children for whom paternity has been established. For this purpose, paternity is not at issue if the parents were married and neither parent challenges paternity or a voluntary paternity declaration has been executed by the parents prior to the local child support agency obtaining the case and neither parent challenges paternity.

(5) The number of cases requiring that a support order be established and the number of cases that had a support order established during the period. A support order shall be counted as established only when the appropriate court has issued an order for child support, including an order for temporary child support, or an order for medical support.

(6) The total cost of administering the local child support agency, including the federal, state, and county share of the costs and the federal and state incentives received by each county. The total cost of administering the program shall be broken down by the following:

(A) The direct costs of the program, broken down further by total employee salaries and benefits, a list of the number of employees broken down into at least the following categories: attorneys, administrators, caseworkers, investigators, and clerical support; contractor costs; space

charges; and payments to other county agencies. Employee salaries and numbers need only be reported in the annual report.

(B) The indirect costs, showing all overhead charges.

(7) The total child support collections due, broken down by current support, interest on arrears, and principal, and the total child support collections that have been collected, broken down by current support, interest on arrears, and principal.

(8) The actual case status for all cases in the county child support enforcement program. Each case shall be reported in one case status only. If a case falls within more than one status category, it shall be counted in the first status category of the list set forth below in which it qualifies. The following shall be the case status choices:

(A) No support order, location of obligor parent required.

(B) No support order, alleged obligor parent located and paternity required.

(C) No support order, location and paternity not at issue but support order must be established.

(D) Support order established with current support obligation and obligor is in compliance with support obligation.

(E) Support order established with current support obligation, obligor is in arrears, and location of obligor is necessary.

(F) Support order established with current support obligation, obligor is in arrears, and location of obligor's assets is necessary.

(G) Support order established with current support obligation, obligor is in arrears, and no location of obligor or obligor's assets is necessary.

(H) Support order established with current support obligation, obligor is in arrears, the obligor is located, but the local child support agency has established satisfactorily that the obligor has no income or assets and no ability to earn.

(I) Support order established with current support obligation and arrears, obligor is paying the current support and is paying some or all of the interest on the arrears, but is paying no principal.

(J) Support order established for arrears only and obligor is current in repayment obligation.

(K) Support order established for arrears only, obligor is not current in arrears repayment schedule, and location of obligor is required.

(L) Support order established for arrears only, obligor is not current in arrears repayment schedule, and location of obligor's assets is required.

(M) Support order established for arrears only, obligor is not current in arrears repayment schedule, and no location of obligor or obligor's assets is required.

(N) Support order established for arrears only, obligor is not current in arrears repayment, and the obligor is located, but the local child support agency has established satisfactorily that the obligor has no income or assets and no ability to earn.

(O) Support order established for arrears only and obligor is repaying some or all of the interest, but no principal.

(P) Other, if necessary, to be defined in the regulations promulgated under subdivision (e).

(e) Upon implementation of the statewide automated system, or at the time that the department determines that compliance with this subdivision is possible, whichever is earlier, each county that is participating in the state incentive program described in Section 17704 shall collect and report, and the department shall compile for each participating county, information on the county child support program in each fiscal year, all of the following data, in a manner that facilitates comparison of counties and the entire state, except that the department may eliminate or modify the requirement to report any data mandated to be reported pursuant to this subdivision if the department determines that the local child support agencies are unable to accurately collect and report the information or that collecting and reporting of the data by the local child support agencies will be onerous:

(1) The number of alleged obligors or fathers who receive CalWORKs benefits, food stamp benefits, and Medi-Cal benefits.

(2) The number of obligors or alleged fathers who are in state prison or county jail.

(3) The number of obligors or alleged fathers who do not have a social security number.

(4) The number of obligors or alleged fathers whose address is unknown.

(5) The number of obligors or alleged fathers whose complete name, consisting of at least a first and last name, is not known by the local child support agency.

(6) The number of obligors or alleged fathers who filed a tax return with the Franchise Tax Board in the last year for which a data match is available.

(7) The number of obligors or alleged fathers who have no income reported to the Employment Development Department during the third quarter of the fiscal year.

(8) The number of obligors or alleged fathers who have income between one dollar (\$1) and five hundred dollars (\$500) reported to the Employment Development Department during the third quarter of the fiscal year.

(9) The number of obligors or alleged fathers who have income between five hundred one dollars (\$501) and one thousand five hundred

dollars (\$1,500) reported to the Employment Development Department during the third quarter of the fiscal year.

(10) The number of obligors or alleged fathers who have income between one thousand five hundred one dollars (\$1,501) and two thousand five hundred dollars (\$2,500) reported to the Employment Development Department during the third quarter of the fiscal year.

(11) The number of obligors or alleged fathers who have income between two thousand five hundred one dollars (\$2,501) and three thousand five hundred dollars (\$3,500) reported to the Employment Development Department during the third quarter of the fiscal year.

(12) The number of obligors or alleged fathers who have income between three thousand five hundred one dollars (\$3,501) and four thousand five hundred dollars (\$4,500) reported to the Employment Development Department during the third quarter of the fiscal year.

(13) The number of obligors or alleged fathers who have income between four thousand five hundred one dollars (\$4,501) and five thousand five hundred dollars (\$5,500) reported to the Employment Development Department during the third quarter of the fiscal year.

(14) The number of obligors or alleged fathers who have income between five thousand five hundred one dollars (\$5,501) and six thousand five hundred dollars (\$6,500) reported to the Employment Development Department during the third quarter of the fiscal year.

(15) The number of obligors or alleged fathers who have income between six thousand five hundred one dollars (\$6,501) and seven thousand five hundred dollars (\$7,500) reported to the Employment Development Department during the third quarter of the fiscal year.

(16) The number of obligors or alleged fathers who have income between seven thousand five hundred one dollars (\$7,501) and nine thousand dollars (\$9,000) reported to the Employment Development Department during the third quarter of the fiscal year.

(17) The number of obligors or alleged fathers who have income exceeding nine thousand dollars (\$9,000) reported to the Employment Development Department during the third quarter of the fiscal year.

(18) The number of obligors or alleged fathers who have two or more employers reporting earned income to the Employment Development Department during the third quarter of the fiscal year.

(19) The number of obligors or alleged fathers who receive unemployment benefits during the third quarter of the fiscal year.

(20) The number of obligors or alleged fathers who receive state disability benefits during the third quarter of the fiscal year.

(21) The number of obligors or alleged fathers who receive workers' compensation benefits during the third quarter of the fiscal year.

(22) The number of obligors or alleged fathers who receive Social Security Disability Insurance benefits during the third quarter of the fiscal year.

(23) The number of obligors or alleged fathers who receive Supplemental Security Income/State Supplementary Program for the Aged, Blind and Disabled benefits during the third quarter of the fiscal year.

(f) The department, in consultation with the Legislative Analyst's Office, the Judicial Council, the California Family Support Council, and child support advocates, shall develop regulations to ensure that all local child support agencies report the data required by this section uniformly and consistently throughout California.

(g) For each federal fiscal year, the department shall provide the information for all participating counties to each member of a county board of supervisors, county executive officer, local child support agency, and the appropriate policy committees and fiscal committees of the Legislature on or before June 30, of each fiscal year. The department shall provide data semiannually, based on the federal fiscal year, on or before December 31, of each year. The department shall present the information in a manner that facilitates comparison of county performance.

(h) For purposes of this section, "case" means a noncustodial parent, whether mother, father, or putative father, who is, or eventually may be, obligated under law for support of a child or children. For purposes of this definition, a noncustodial parent shall be counted once for each family that has a dependent child he or she may be obligated to support.

(i) This section shall be operative only for as long as Section 17704 requires participating counties to report data to the department.

SEC. 97. Section 216.3 of the Financial Code is amended to read:

216.3. (a) For purposes of this section, the following definitions apply:

(1) "Applicable law" means:

(A) With respect to any bank, Division 1.5 (commencing with Section 4800), and any of the following provisions of Division 1 (commencing with Section 99) of the Financial Code:

(i) Article 5 (commencing with Section 270) of Chapter 2.

(ii) Article 3 (commencing with Section 640) of Chapter 5.

(iii) Article 4.5 (commencing with Section 670) of Chapter 5.

(iv) Article 6 (commencing with Section 690) of Chapter 5.

(v) Chapter 6 (commencing with Section 750).

(vi) Chapter 10 (commencing with Section 1200).

(vii) Article 1 (commencing with Section 1400) of Chapter 11.

(viii) Chapter 12 (commencing with Section 1500).

(ix) Chapter 13.5 (commencing with Section 1700).

- (x) Section 1936.
- (xi) Section 1937.
- (xii) Section 1938.
- (xiii) Section 1939.
- (xiv) Section 1945.
- (xv) Section 1951.
- (xvi) Section 3359.
- (xvii) Chapter 19 (commencing with Section 3500).
- (xviii) Chapter 21.5 (commencing with Section 3750).
- (xix) Chapter 22 (commencing with Section 3800).
- (B) With respect to any savings association, any provision of Division 1.5 (commencing with Section 4800) and Division 2 (commencing with Section 5000).
- (C) With respect to any issuer of traveler's checks, any provision of Chapter 14A (commencing with Section 1851) of Division 1.
- (D) With respect to any insurance premium finance company, any provision of Division 7 (commencing with Section 18000).
- (E) With respect to any business and development corporation, any provision of Division 15 (commencing with Section 31000).
- (F) With respect to any credit union, any of the following provisions:
 - (i) Section 14252.
 - (ii) Section 14253.
 - (iii) Section 14255.
 - (iv) Article 4 (commencing with Section 14350) of Chapter 3 of Division 5.
 - (v) Section 14401.
 - (vi) Section 14404.
 - (vii) Section 14408, only as that section applies to gifts to directors, volunteers, and employees, and the related family or business interests of the directors, volunteers, and employees.
 - (viii) Section 14409.
 - (ix) Section 14410.
 - (x) Article 5 (commencing with Section 14600) of Chapter 4 of Division 5.
 - (xi) Article 6 (commencing with Section 14650) of Chapter 4 of Division 5, excluding subdivision (a) of Section 14651.
 - (xii) Section 14803.
 - (xiii) Section 14851.
 - (xiv) Section 14858.
 - (xv) Section 14860.
 - (xvi) Section 14861.
 - (xvii) Section 14863.
- (G) With respect to any person licensed to transmit money abroad, any provision of Chapter 14 (commencing with Section 1800).

(H) With respect to any person licensed to sell payment instruments, any provision of Division 16 (commencing with Section 33000).

(2) "Licensee" means any bank, savings association, credit union, transmitter of money abroad, issuer of payment instruments, issuer of traveler's checks, insurance premium finance agency, or business and industrial development corporation that is authorized by the commissioner to conduct business in this state.

(b) Notwithstanding any other provision of this code that applies to a licensee or a subsidiary of a licensee, after notice and an opportunity to be heard, the commissioner may, by order that shall include findings of fact which incorporates a determination made in accordance with subdivision (e), levy civil penalties against any licensee or any subsidiary of a licensee who has violated any provision of applicable law, any order issued by the commissioner, any written agreement between the commissioner and the licensee or subsidiary of the licensee, or any condition of any approval issued by the commissioner. Notwithstanding any other provision of law, neither the commissioner nor any employee of the department shall disclose or permit the disclosure of any record, record of any action, or information contained in a record of any action, taken by the commissioner under the provisions of this section, unless the action was taken pursuant to paragraph (2) of subdivision (b), to persons other than federal or state government employees who are authorized by statute to obtain the records in the performance of their official duties, unless the disclosure is authorized or requested by the affected licensee or the affected subsidiary of the licensee. The commissioner shall have the sole authority to bring any action with respect to a violation of applicable law subject to a penalty imposed under this section.

Except as provided in paragraphs (1) and (2), any penalty imposed by the commissioner may not exceed one thousand dollars (\$1,000) a day, provided that the aggregate penalty of all offenses in any one action against any licensee or subsidiary of a licensee shall not exceed fifty thousand dollars (\$50,000).

(1) If the commissioner determines that any licensee or subsidiary of the licensee has recklessly violated any applicable law, any order issued by the commissioner, any provision of any written agreement between the commissioner and the licensee or subsidiary, or any condition of any approval issued by the commissioner, the commissioner may impose a penalty not to exceed five thousand dollars (\$5,000) per day, provided that the aggregate penalty of all offenses in an action against any licensee or subsidiary of a licensee shall not exceed seventy-five thousand dollars (\$75,000).

(2) If the commissioner determines that any licensee or subsidiary of the licensee has knowingly violated any applicable law, any order issued

by the commissioner, any provision of any written agreement between the commissioner and the licensee or subsidiary, or any condition of any approval issued by the commissioner, the commissioner may impose a penalty not to exceed ten thousand dollars (\$10,000) per day, provided that the aggregate penalty of all offenses in an action against any licensee or subsidiary of a licensee shall not exceed 1 percent of the total assets of the licensee or subsidiary of a licensee subject to the penalty.

(c) Nothing in this section shall be construed to impair or impede the commissioner from pursuing any other administrative action allowed by law.

(d) Nothing in this section shall be construed to impair or impede the commissioner from bringing an action in court to enforce any law or order he or she has issued, including orders issued under this section. Nothing in this section shall be construed to impair or impede the commissioner from seeking any other damages or injunction allowed by law.

(e) In determining the amount and the appropriateness of initiating a civil money penalty under subdivision (b), the commissioner shall consider all of the following:

(1) Evidence that the violation or practice or breach of duty was intentional or was committed with a disregard of the law or with a disregard of the consequences to the institution.

(2) The duration and frequency of the violations, practices, or breaches of duties.

(3) The continuation of the violations, practices, or breaches of duty after the licensee or subsidiary of the licensee was notified, or, alternatively, its immediate cessation and correction.

(4) The failure to cooperate with the commissioner in effecting early resolution of the problem.

(5) Evidence of concealment of the violation, practice, or breach of duty or, alternatively, voluntary disclosure of the violation, practice, or breach of duty.

(6) Any threat of loss, actual loss, or other harm to the institution, including harm to the public confidence in the institution, and the degree of that harm.

(7) Evidence that a licensee or subsidiary of a licensee received financial gain or other benefit as a result of the violation, practice, or breach of duty.

(8) Evidence of any restitution paid by a licensee or subsidiary of a licensee of losses resulting from the violation, practice, or breach of duty.

(9) History of prior violations, practices, or breaches of duty, particularly where they are similar to the actions under consideration.

(10) Previous criticism of the institution for similar actions.

(11) Presence or absence of a compliance program and its effectiveness.

(12) Tendency to engage in violations of law, unsafe or unsound banking practices, or breaches of duties.

(13) The existence of agreements, commitments, orders, or conditions imposed in writing intended to prevent the violation, practice, or breach of duty.

(14) Whether the violation, practice, or breach of duty causes quantifiable, economic benefit or loss to the licensee or the subsidiary of the licensee. In those cases, removal of the benefit or recompense of the loss usually will be insufficient, by itself, to promote compliance with the applicable law, order, or written agreement. The penalty amount should reflect a remedial purpose and should provide a deterrent to future misconduct.

(15) Other factors as the commissioner may, in his or her opinion, consider relevant to assessing the penalty or establishing the amount of the penalty.

(f) The amounts collected under this section shall be deposited in the appropriate fund of the department. For purposes of this subdivision, the term "appropriate fund" means the fund to which the annual assessments of fined licensees, or the parent licensee of the fined subsidiary, are credited.

SEC. 98. Section 258 of the Financial Code is amended to read:

258. At least once each month, the commissioner shall issue and disseminate as the commissioner deems appropriate a bulletin containing the following information:

(a) Information regarding any of the following actions taken since issuance of the previous bulletin:

(1) The filing, approval, or denial under Chapter 3 (commencing with Section 350) of an application for authority to organize a California state bank, or the issuance under Chapter 3 of a certificate of authority to a California state bank.

(2) The filing, approval, or denial under Article 1 (commencing with Section 5400) of Chapter 2 of Division 2 of an application for the issuance of an organizing permit for the organization of a California savings association, or for the issuance under Article 2 (commencing with Section 5500) of Chapter 2 of Division 2 of a certificate of authority to a California savings association.

(3) The filing, approval, or denial under Article 2 (commencing with Section 14150) of Chapter 2 of Division 5 of an application for a certificate to act as a credit union, or the issuance of a certificate to engage in the business of a credit union.

(4) The filing, approval, or denial under Chapter 14 (commencing with Section 1800), Chapter 14A (commencing with Section 1851),

Division 7 (commencing with Section 18000), Division 15 (commencing with Section 31000), or Division 16 (commencing with Section 33000) of an application for a license to engage in business, or the issuance under any of those laws of a license to engage in business.

(5) The filing, approval, or denial under Chapter 13.5 (commencing with Section 1700) of an application by a foreign (other nation) bank to establish its first office of any particular class (as determined under Section 1701) in this state, or the issuance under that chapter of a license in connection with the establishment of such an office.

(6) The filing, approval, or denial under Division 1.5 (commencing with Section 4800) of an application for approval of a sale, merger, or conversion.

(7) The filing, approval, or denial under Article 6 (commencing with Section 5700) of Chapter 2 of Division 2 of an application for approval of a conversion of a federal savings association into a state savings association, or the filing of a federal charter of a state savings association that has converted to a federal savings association.

(8) The filing, approval, or denial under Article 7 (commencing with Section 5750) of Chapter 2 of Division 2 of an application for approval of a reorganization, merger, consolidation, or transfer of assets of a state savings association.

(9) The filing, approval, or denial under Chapter 9 (commencing with Section 15200) of Division 5 of an application for approval of a merger, dissolution, or conversion of a credit union.

(10) The taking of possession of the property and business of a California state bank, savings association, credit union, or person licensed by the commissioner under any of the laws cited in paragraph (2).

(b) Other information as the commissioner deems appropriate.

SEC. 99. Section 645 of the Financial Code is amended to read:

645. If the commissioner finds that the shareholders' equity of a bank is not adequate or that the making by a bank or by any majority-owned subsidiary of a bank of a distribution to the shareholders of the bank would be unsafe or unsound for the bank, the commissioner may order the bank and its majority-owned subsidiaries not to make any distribution to the shareholders of the bank. In addition to the order authorized by this section, the commissioner may levy a civil penalty against the bank pursuant to Section 216.3.

SEC. 100. Section 690 of the Financial Code is amended to read:

690. Unless the context otherwise requires, in this article:

(a) "Offer" or "offer to sell" includes every attempt or offer to dispose of, or solicitation of an offer to buy, a security for value.

(b) "Sale" or "sell" includes every contract of sale of, contract to sell, or disposition of, a security for value. "Sale" or "sell" includes any

exchange of securities and any change in the rights, preferences, privileges, or restrictions of or on outstanding securities.

(c) "Security" means any stock, capital note, or debenture, or any warrant, right, or option to subscribe to or purchase any of the foregoing.

(d) The terms defined in subdivisions (a) and (b) do not include any stock dividend payable with respect to common stock of a bank solely (except for any cash or scrip paid for fractional shares) in shares of such common stock, if such bank has no other class of voting stock outstanding, provided that shares issued in any such dividend shall be subject to any conditions previously imposed by the commissioner applicable to the shares with respect to which they are issued.

SEC. 101. Section 777.5 of the Financial Code is amended to read:

777.5. (a) Notwithstanding the provisions of Sections 1051, 1052, and 1054 of the Labor Code and Section 2947 of the Penal Code, a bank or any affiliate thereof, licensed under the laws of any state or of the United States, or any officer or employee thereof, may deliver fingerprints taken of a director, an officer, an employee, or an applicant for employment to local, state, or federal law enforcement agencies for the purpose of obtaining information as to the existence and nature of a criminal record, if any, of the person fingerprinted relating to convictions, and to any arrest for which that person is released on bail or on his or her own recognizance pending trial, for the commission or attempted commission of a crime involving robbery, burglary, theft, embezzlement, fraud, forgery, bookmaking, receiving stolen property, counterfeiting, or involving checks or credit cards or using computers.

(b) The Department of Justice shall, pursuant to Section 11105 of the Penal Code, and a local agency may, pursuant to Section 13300 of the Penal Code, furnish to the officer of the bank or affiliate responsible for the final decision regarding employment of the person fingerprinted, or to his or her designees having responsibilities for personnel or security decisions in the usual scope and course of their employment with the bank or affiliate, summary criminal history information when requested pursuant to this section. If, upon evaluation of the criminal history information received pursuant to this section, the bank or affiliate determines that employment of the person fingerprinted would constitute an unreasonable risk to that bank or affiliate or its customers, the person may be denied employment.

(c) A request for records pursuant to this section made of the Department of Justice shall be on a form approved by the department. The department may charge a fee to be paid by the requesting bank or affiliate pursuant to subdivision (e) of Section 11105 of the Penal Code. No request shall be submitted without the written consent of the person fingerprinted.

(d) Any criminal history information obtained pursuant to this section is confidential and no recipient shall disclose its contents other than for the purpose for which it was acquired.

(e) "Affiliate," as used in this section, means any corporation controlling, controlled by, or under common control with, a bank, whether directly, indirectly, or through one or more intermediaries.

SEC. 102. Section 867 of the Financial Code is amended to read:

867. (a) Funds deposited in an account at a depository institution shall be available on the second business day after the business day on which those funds are deposited in the case of a cashier's check, certified check, teller's check, or depository check subject to the following:

(1) The check is endorsed only by the person to whom it was issued.
(2) The check is deposited in a receiving depository institution that is staffed by individuals employed by that institution.

(3) The check is deposited with a special deposit slip that indicates it is a cashier's check, certified check, teller's check, or depository check, as the case may be.

(4) The check is deposited into an account in the name of a customer that has maintained any account with the receiving depository institution for a period of 60 days or more.

(5) The face amount of the check is for five thousand dollars (\$5,000) or less.

In the case of funds deposited on any business day in an account at a depository institution by depository checks, the aggregate amount of which exceeds five thousand dollars (\$5,000), this subdivision shall apply only with respect to the first five thousand dollars (\$5,000) of the aggregate amount.

(b) Subdivision (a) does not apply to a depository check if the receiving depository institution reasonably believes that the check is uncollectible from the originating depository institution. For purposes of this subdivision, "reasonable cause to believe" requires the existence of facts that would cause a well-grounded belief in the mind of a reasonable person. These reasons shall include, but not be limited to, a belief that (1) the drawer or drawee of the depository check has been, or will imminently be, adjudicated a bankrupt or placed in receivership or (2) the depository check may be involved in a fraud or in a scheme commonly known as "kiting." In these situations, the depository institution electing to proceed under this subdivision shall so notify the drawer and drawee no later than the close of the next business day following deposit of the depository check.

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

(1) "Account" means any demand deposit account and any other similar transaction account at a depository institution.

(2) "Business day" means any day other than a Saturday, Sunday, or legal holiday.

(3) "Cashier's check" means any check that is subject to the following:

(A) The check is drawn on a depository institution.

(B) The check is signed by an officer or employee of the depository institution.

(C) The check is a direct obligation of the depository institution.

(4) "Certified check" means any check with respect to which a depository institution certifies the following:

(A) That the signature on the check is genuine.

(B) The depository institution has set aside funds that are equal to the amount of the check and will be used only to pay that check.

(5) "Depository check" means any cashier's check, certified check, teller's check, and any other functionally equivalent instrument, as determined by the Board of Governors of the Federal Reserve System or the commissioner.

(6) "Depository institution" has the meaning given in clauses (i) to (vi), inclusive, of Section 19(b)(1)(A) of the Federal Reserve Act.

(7) "Teller's check" means any check issued by a depository institution and drawn on another depository institution.

(d) Except for the specific circumstances and checks described in this section, this section is not intended to restrict or preempt the regulatory authority of the commissioner.

(e) In the event of a suspension or modification of any similar provisions in the federal Expedited Funds Availability Act, the effect of this section shall be similarly suspended or modified.

SEC. 103. Section 1753 of the Financial Code is amended to read:

1753. (a) (1) No foreign (other nation) bank shall establish or maintain an agency or branch office unless the commissioner shall have first approved the establishment of that office and issued a license authorizing the bank to maintain the office.

(2) Paragraph (1) shall not be deemed to prohibit a foreign (other nation) bank from establishing or maintaining a federal agency or federal branch in this state.

(b) If the commissioner finds the following with respect to an application by a foreign (other nation) bank for approval to establish an agency or branch office, the commissioner shall approve the application:

(1) That the bank, any controlling person of the bank, the directors and executive officers of the bank or of any controlling person of the bank, and the proposed management of the office are each of good character and sound financial standing.

(2) That the financial history and condition of the bank are satisfactory.

(3) That the management of the bank and the proposed management of the office are adequate.

(4) That it is reasonable to believe that, if licensed to maintain the office, the bank will operate the office in a safe and sound manner and in compliance with all applicable laws, regulations, and orders.

(5) That the bank's plan to establish and to maintain the office affords reasonable promise of successful operation.

(6) That the bank's establishment and maintenance of the office will promote the public convenience and advantage.

(7) In case the office is to be a branch office, that the foreign nation where the bank is domiciled permits banks organized under the laws of this state and national banks headquartered in this state to establish and maintain in those foreign nation offices substantially equivalent to agencies, offices substantially equivalent to branch offices, or wholly (except for directors' qualifying shares) owned banks organized under the laws of the foreign nation.

If the commissioner finds otherwise, the commissioner shall deny the application.

(c) Whenever an application by a foreign (other nation) bank for approval to establish an agency or branch office has been approved and all conditions precedent to the issuance of a license authorizing the bank to maintain the office have been fulfilled, the commissioner shall issue the license.

SEC. 104. Section 1807 of the Financial Code is amended to read:

1807. (a) The commissioner may by order or regulation grant exemptions from this section in cases where the commissioner finds that the requirements of this section are not necessary.

(b) Each licensee shall, within 90 days after the end of each fiscal year, or within such extended time as the commissioner may prescribe, file with the commissioner an audit report for the fiscal year.

(c) The audit report called for in subdivision (b) shall comply with all of the following provisions:

(1) The audit report shall contain such audited financial statements of the licensee for or as of the end of the fiscal year prepared in accordance with generally accepted accounting principles and such other information as the commissioner may require.

(2) The audit report shall be based upon an audit of the bank conducted in accordance with generally accepted auditing standards and such other requirements as the commissioner may prescribe.

(3) The audit report shall be prepared by an independent certified public accountant or independent public accountant who is not unsatisfactory to the commissioner.

(4) The audit report shall include or be accompanied by a certificate of opinion of the independent certified public accountant or independent

public accountant that is satisfactory in form and content to the commissioner. If the certificate or opinion is qualified, the commissioner may order the licensee to take such action as the commissioner may find necessary to enable the independent or certified public accountant or independent public accountant to remove the qualification.

(d) Each licensee shall, not more than 45 days after the end of each quarter (except the fourth quarter of its fiscal year), or within a longer period as the commissioner may by regulation or order specify, file with the commissioner a report containing all of the following:

(1) Financial statements, including balance sheet, income statement, statement of changes in shareholders' equity, and statement of cashflows, for, or as of the end of, that fiscal quarter, verified by two of the licensee's principal officers. The verification shall state that each of the officers making the verification has a personal knowledge of the matters in the report and that each of them believes that each statement on the report is true.

(2) The current address of the headquarters office and each branch office of the licensee and each agent at which the licensee receives transmission money in this state.

(3) The name and business address of each person who acted as an agent of the licensee during the quarter in this state, and if the person is no longer an agent of the licensee, the date on which the relationship terminated.

(4) Other information as the commissioner may by regulation or order require.

(e) Each licensee shall file with the commissioner other reports as and when the commissioner may by regulation or order require.

SEC. 105. Section 1908 of the Financial Code is amended to read:

1908. The commissioner, a deputy commissioner, and every examiner assigned to an examination may administer an oath to any person whose testimony is required for the purposes of any examination authorized by this division and may by issuance of subpoena compel the appearance of any person and the production of any evidence for the purposes of the examination.

SEC. 106. Section 3804 of the Financial Code is amended to read:

3804. Fees shall be paid to and collected by the commissioner as follows:

(a) The fee for filing with the commissioner an application by an uninsured foreign (other state) bank for approval to establish a facility is two hundred fifty dollars (\$250).

(b) The fee for filing with the commissioner an application by an uninsured foreign (other state) bank that is licensed pursuant to Article 4 (commencing with Section 3860) to maintain a facility for approval to relocate or to close the facility is one hundred dollars (\$100).

(c) The fee for issuing a license pursuant to Article 4 (commencing with Section 3860) is twenty-five dollars (\$25).

(d) Each foreign (other state) state bank that on June 1 of any year maintains one or more California branch offices shall pay, on or before the following July 1, a fee of one thousand dollars (\$1,000) per California branch office. However, the minimum fee paid by a foreign (other state) state bank under this subdivision shall be not less than three thousand dollars (\$3,000) and the maximum fee shall be not more than fifty thousand dollars (\$50,000).

(e) Each foreign (other state) bank that on June 1 of any year maintains a facility but no California branch office shall pay, on or before the following July 1, a fee of two hundred fifty dollars (\$250) for each facility.

(f) If the commissioner makes an examination in connection with a pending application, as described in subdivision (a) or (b), the applicant shall pay a fee for the examination of seventy-five dollars (\$75) per hour for each examiner engaged in the examination plus, if in the opinion of the commissioner it is necessary for any examiner engaged in the examination to travel outside this state, the travel expenses of the examiner.

(g) If the commissioner makes an examination of a foreign (other state) state bank that maintains a California branch office, the bank shall pay a fee for the examination of seventy-five dollars (\$75) per hour for each examiner engaged in the examination plus, if in the opinion of the commissioner it is necessary for any examiner engaged in the examination to travel outside this state, the travel expenses of the examiner.

(h) If the commissioner makes an examination of a facility of an uninsured foreign (other state) bank licensed under Article 4 (commencing with Section 3860), the bank shall pay a fee for the examination of seventy-five dollars (\$75) per hour for each examiner engaged in the examination plus, if in the opinion of the commissioner it is necessary for any examiner engaged in the examination to travel outside this state, the travel expenses of the examiner.

(i) If the commissioner makes an examination of a facility of an insured foreign (other state) bank that does not maintain a California branch office, the bank shall pay a fee for the examination of seventy-five dollars (\$75) per hour for each examiner engaged in the examination plus, if in the opinion of the commissioner it is necessary for any examiner engaged in the examination to travel outside this state, the travel expenses of the examiner.

SEC. 107. Section 14401 of the Financial Code is amended to read:
14401. A credit union may borrow money from any source in an aggregate amount not to exceed 50 percent of the paid-in and unimpaired

capital and surplus of the credit union. Loans from the National Credit Union Central Liquidity Facility (12 U.S.C. Sec. 1795 et seq.) shall not be included in computing the aggregate borrowings of a credit union. For the purposes of this division, "certificate for funds" means borrowed money.

SEC. 108. Section 50122 of the Financial Code is amended to read:

50122. (a) The application for a residential mortgage lender license shall be in writing, executed under penalty of perjury, and verified on a form prescribed by the commissioner. If an applicant proposes to engage in business as a residential mortgage loan servicer as well as a residential mortgage lender, this information shall be set forth in the application. The commissioner may issue a license under this chapter to engage in business as a residential mortgage lender or to engage in business as a residential mortgage lender and residential mortgage loan servicer. A person filing an application under this chapter to engage in business as a residential mortgage lender and a residential mortgage loan servicer is not required to file an application under Chapter 3 (commencing with Section 50130).

(b) The application shall contain the name and complete business and residential address or addresses of the applicant. If the applicant is a partnership, association, corporation, or other entity, the application shall contain the names and complete business and residential addresses of each member, director, and principal officer. The application also shall include a description of the activities of the applicant in the detail and for the periods that the commissioner may require, including all of the following:

(1) A statement of financial solvency, noting the net worth requirements and supported by an audited financial statement prepared by an independent certified public accountant, and access to the supporting credit information as required by this division.

(2) A statement that the applicant or its members, directors, or principals, as appropriate, are at least 18 years of age.

(3) Information as to the character, fitness, financial and business responsibility, background, experience, and criminal convictions of any of the following:

(A) Any person that owns or controls, directly or indirectly, 10 percent or more of any class of stock of the applicant.

(B) Any person that controls, directly or indirectly, the election of 25 percent or more of the members of the board of directors of an applicant.

(C) Any person or entity that significantly influences or controls the management of the applicant.

(4) A description of any disciplinary action filed under any other license through which the person conducts its business.

(5) A description of any adverse judgments entered in court actions filed by borrowers based upon allegations of fraud, misrepresentation, or dishonesty in the conduct of the person's business.

(6) A copy of the fidelity bond currently in effect.

(7) Other information as required by rule of the commissioner.

SEC. 109. Section 206 of the Fish and Game Code is amended to read:

206. (a) In addition to, or in conjunction with, other regular or special meetings, the commission shall, at least every three years, hold meetings in the first 10 days of August, October, November, and December for the purpose of considering and adopting revisions to regulations relating to fish, amphibians, and reptiles. The commission shall alternate the locations of the August and December meetings between Los Angeles or Long Beach and Sacramento, and the October and November meetings between San Diego and Redding or Red Bluff.

(b) At the August meeting, the commission shall receive recommendations for regulations from its own members and staff, the department, other public agencies, and the public.

(c) At the October and November meetings, the commission shall devote time for open public discussion of proposed regulations presented at the August meeting. The department shall participate in this discussion by reviewing and presenting its findings regarding each regulation proposed by the public and by responding to objections raised pertaining to its proposed regulations. After considering the public discussion, the commission shall announce, prior to adjournment of the November meeting, the regulations it intends to add, amend, or repeal relating to fish, amphibians, and reptiles.

(d) At the December meeting, the commission may choose to hear additional public discussion regarding the regulations it intends to adopt. At, or within 20 days after, the meeting, the commission shall add, amend, or repeal regulations relating to any recommendation received at the August meeting regarding fish, amphibians, and reptiles it deems necessary to preserve, properly utilize, and maintain each species or subspecies.

(e) Within 45 days after adoption, the department shall publish and distribute regulations adopted pursuant to this section.

SEC. 110. Section 1570 of the Fish and Game Code is amended to read:

1570. In establishing the Shared Habitat Alliance for Recreational Enhancement ("SHARE") program, it is the intent of the Legislature to encourage private landowners to voluntarily make their land available to the public for wildlife-dependent recreational activities. The Legislature further encourages private landowners to use any funds received from the SHARE program for wildlife conservation purposes

on their property. The SHARE program shall be a collaborative effort by all participants to facilitate wildlife-dependent recreational activities on private land at minimal expense to the state. The Legislature declares that interested nongovernmental organizations are the key to developing, planning, and implementing the SHARE program.

SEC. 111. Section 1572 of the Fish and Game Code is amended to read:

1572. (a) The department, in partnership with nonprofit conservation groups and other interested nongovernmental organizations that seek to increase and enhance wildlife-dependent recreational opportunities, shall work cooperatively to plan and develop a program to facilitate public access to private lands for wildlife-dependent recreational activities.

(b) Once the terms of the program have been established and approved by the partnership, the commission shall verify that sufficient demonstration of private landowner and program participant interest has been shown to support the program. The Department of Finance shall verify that sufficient funds exist in the SHARE Account to start the program. Upon that verification, in order to facilitate the implementation of the program, the commission shall adopt regulations and fees for the management and control of wildlife-dependent recreational activities on land that is subject to this article.

(c) The SHARE Account is hereby established in the Fish and Game Preservation Fund. Money deposited in the SHARE Account from the sources cited in subdivision (d) shall only be used for the purposes set forth in this article and to repay the General Fund or the Fish and Game Preservation Fund, as appropriate, for any expenses incurred by the department, commission, or the Department of Finance in establishing the SHARE program.

(d) No General Fund moneys shall be used for the program. The department may impose user fees or apply for grants, federal funds, or other contributions from nonstate sources to fund the program. Funds may also be used for wildlife conservation purposes on lands subject to an agreement under the program. Notwithstanding Section 13220, no moneys shall be available for the program unless the Legislature appropriates moneys to the department therefor.

(e) The department shall maintain data on the types of wildlife-dependent recreational activities preferred by users.

SEC. 112. Section 1613 of the Fish and Game Code is amended to read:

1613. If, after receiving a notification, but before the department executes a final agreement, the director of the department informs the entity, in writing, that the activity described in the notification, or any activity or conduct by the entity directly related thereto, violates any

provision of this code or the regulations that implement the code, the department may suspend processing the notification, and subparagraph (D) of paragraph (4) of subdivision (a) of Section 1602 and the timelines specified in Section 1603 do not apply. This section ceases to apply if any of the following occurs:

(a) The department determines that the violation has been remedied.

(b) Legal action to prosecute the violation is not filed within the applicable statute of limitations.

(c) Legal action to prosecute the violation has been terminated.

SEC. 113. Section 7149.2 of the Fish and Game Code is amended to read:

7149.2. (a) In addition to Sections 714, 7149, and 7149.05, the department shall issue a lifetime sport fishing license under this section. A lifetime sport fishing license authorizes the taking of fish, amphibians, or reptiles anywhere in this state in accordance with the law for purposes other than profit for the life of the person to whom issued unless revoked for a violation of this code or regulations adopted under this code. A lifetime sport fishing license is not transferable. A lifetime sport fishing license does not include any special license tags, license stamps, or fees.

(b) A lifetime sport fishing license may be issued to residents of this state, as follows:

(1) To a person 62 years of age or over, upon payment of a base fee of three hundred sixty-five dollars (\$365).

(2) To a person 40 years of age or over and less than 62 years of age, upon payment of a base fee of five hundred forty dollars (\$540).

(3) To a person 10 years of age or over and less than 40 years of age upon payment of a base fee of six hundred dollars (\$600).

(4) To a person less than 10 years of age upon payment of a base fee of three hundred sixty-five dollars (\$365).

(c) Nothing in this section requires a person less than 16 years of age to obtain a license to take fish, amphibians, or reptiles for purposes other than profit.

(d) Nothing in this section exempts a license applicant from meeting other qualifications or requirements otherwise established by law for the privilege of sport fishing.

(e) Upon payment of a base fee of two hundred forty-five dollars (\$245), a person holding a lifetime sport fishing license or lifetime sportsman's license shall be entitled annually to the privileges afforded to a person holding a second-rod stamp or validation issued pursuant to Section 7149.4 or 7149.45, a sport fishing ocean enhancement stamp or validation issued pursuant to paragraph (1) of subdivision (a) of Section 6596 or 6596.1, one steelhead trout report restoration card issued pursuant to Section 7380, a Bay-Delta sport fishing enhancement stamp or validation issued pursuant to Section 7360 or 7360.1, and one salmon

punchcard issued pursuant to regulations adopted by the commission. Lifetime privileges issued pursuant to this subdivision are not transferable.

(f) The base fees specified in this section are applicable commencing January 1, 2004, and shall be adjusted annually thereafter pursuant to Section 713.

SEC. 114. Section 7361 of the Fish and Game Code is amended to read:

7361. Fees received by the department pursuant to Section 7360 shall be deposited in a separate account in the Fish and Game Preservation Fund. The department shall expend the funds in that account for the long-term, sustainable benefit of the primary Bay-Delta sport fisheries, including, but not limited to, striped bass, sturgeon, black bass, halibut, salmon, surf perch, steelhead trout, and American shad. Funds shall be expended to benefit sport fish populations, sport fishing opportunities, and anglers within the geographic parameters established in Section 7360, and consistent with state and federal Endangered Species Act requirements and applicable commission policies. It is the intent of the Legislature that these funds be used to augment, not replace, funding that would otherwise be allocated to Bay-Delta sport fisheries from the sale of fishing licenses, the California Bay-Delta Authority, or other federal, state, or local funding sources.

SEC. 115. Section 7362 of the Fish and Game Code is amended to read:

7362. (a) The director shall appoint a Bay-Delta Sport Fishing Enhancement Stamp Fund Advisory Committee, consisting of nine members. The committee members shall be selected from names of persons submitted by anglers and associations representing Bay-Delta anglers of this state and shall serve at the discretion of the director for terms of not more than four years. The director shall appoint persons to the committee who possess experience in subjects with specific value to the committee and shall attempt to balance the perspective of different anglers.

(b) The advisory committee shall recommend to the department projects and budgets for the expenditure of revenue received pursuant to Section 7360. The department shall give full consideration to the committee's recommendations.

(c) The department shall submit to the committee, at least annually, an accounting of funds derived from the Bay-Delta Sport Fishing Enhancement Stamps and validations, including the number of stamps and validations sold, funds generated and expended, and the status of programs funded pursuant to this article. In addition, the department shall report, at least annually, to the committee on the status of projects undertaken with funds from that stamp or validation, including reporting

the department's reasoning in cases where committee recommendations are not followed.

SEC. 116. Section 12011 of the Fish and Game Code is amended to read:

12011. (a) In addition to the penalty provided in paragraph (4) of subdivision (b) of Section 12002, any person convicted of a violation of subdivision (a) of Section 5650 is subject to an additional fine of all of the following:

(1) Not more than ten dollars (\$10) for each gallon or pound of material discharged. The amount of the fine shall be reduced for every gallon or pound of the illegally discharged material that is recovered and properly disposed of by the responsible party.

(2) An amount equal to the reasonable costs incurred by the state or local agency for cleanup and abatement and to fully mitigate all actual damages to fish, plant, bird, or animal life and habitat.

(3) Where the state or local agency is required to undertake cleanup or remedial action because the responsible person refuses or is unable to fully clean up the discharge, an amount equal to the reasonable costs incurred by the state or local agency, in addition to the amount of funds, if any, expended by the responsible person, in cleaning up the illegally discharged material or abating its effects, or both cleaning up and abating those effects.

(b) Notwithstanding the jurisdiction of the department over illegal discharges and pollution as provided in Section 5650, the fines specified in this section do not apply to discharges in compliance with a national pollution discharge elimination system permit or a state or regional board waste discharge permit.

SEC. 117. Section 6047.4 of the Food and Agricultural Code is amended to read:

6047.4. (a) The powers of the board shall be the following:

(1) Submit recommendations to the secretary on, but not limited to, the following:

(A) Selection of officers.

(B) Terms of office for board members.

(C) Annual assessment rate.

(D) Annual budget.

(E) Expenditures authorized under Section 6047.5.

(2) Receive money from the assessment and other sources.

(3) Adopt, amend, and rescind all proper and necessary bylaws and procedures.

(4) Coordinate its activities with the secretary's science advisory board and agricultural/governmental advisory task force.

(b) A majority of the members of the board shall constitute a quorum of the board. The vote of a majority of the members present at a meeting

at which there is a quorum constitutes an act of the board, except for actions taken pursuant to subdivision (a) of Section 6047.7, which shall require a majority of the vote of the board. The board may continue to transact business at a meeting where a quorum is initially present, notwithstanding the withdrawal of members, provided any action is approved by the requisite majority of the required quorum.

(c) As authorized by the board, members of the board may receive per diem and mileage in accordance with the rules of the Department of Personnel Administration for attendance at meetings and other approved board activities.

SEC. 118. Section 6047.82 of the Food and Agricultural Code is amended to read:

6047.82. (a) From and after the filing for record of the order of the board of supervisors declaring the district organized, and certification from the county clerk that the grower vote upheld the creation of the district, pursuant to Sections 6047.76 and 6047.77, and the appointment and qualification of its first board of directors, the organization of the district is complete. The district shall operate for a period of five years from the date of its organization, and shall cease to exist after five years unless the district is reauthorized by the board of supervisors.

(b) The board of directors shall hold a public hearing six months prior to termination of its initial organization or last reauthorization to determine whether the conditions of the glassy-winged sharpshooter or Pierce's disease warrant the reauthorization of the district for an additional five years.

(c) The notice of hearing shall state the name of the district and that consideration is being given to reauthorizing the district for an additional five years, the boundaries of the district, and the time and place for the hearing. Notice of the hearing shall be given as provided in Sections 6047.71 and 6047.72. The board of directors shall submit the record of the hearing and its recommendation to the board of supervisors within 90 days of the hearing. The board of supervisors shall approve or reject the recommendation. If it rejects the recommendation, the board of supervisors shall return the report accompanied by its reasons for the rejection to the board of directors within 30 days of receipt. The board of directors may thereafter address the reasons for rejection by the board of supervisors and submit an amended report and new recommendations for reauthorization for approval or rejection by the board of supervisors, unless the district has ceased to exist pursuant to subdivision (a).

(d) If the board of supervisors approves the continuation of the district, the board shall, by an order entered in its minutes, declare the district duly extended subject to a majority vote of table grape growers in the district. The grower vote shall be held pursuant to Section 6047.77.

SEC. 119. Section 27680 of the Food and Agricultural Code is amended to read:

27680. If the grade determination and size determination required by this chapter are performed at a location outside of this state, the records relating to eggs of any person registered under this chapter at that location shall be subject to inspection by the department as the department considers necessary. The department may contract with another agency of state government or with a state department of agriculture or other similar agency where the out-of-state registrant is domiciled to conduct the inspection.

SEC. 120. Section 27681 of the Food and Agricultural Code is amended to read:

27681. A registrant whose out-of-state location is inspected shall reimburse the department for actual and necessary expenses incurred during the inspection. If an out-of-state registrant fails to pay the expenses before the 11th day on which the registrant received an invoice from the department, the department may do any of the following:

- (a) Automatically cancel the person's registration.
- (b) Deny a registration to any person who is connected with a person whose registration is canceled because of a violation of this section.
- (c) Issue an order to stop the sale of all eggs shipped into California from the registrant.

SEC. 121. Section 27686 of the Food and Agricultural Code is amended to read:

27686. All shipped eggs shall be transported under refrigeration in compliance with California statutes and regulations.

SEC. 122. Section 27690 of the Food and Agricultural Code is amended to read:

27690. All brokers registered with California shall itemize in their reports a true and complete list of all eggs brokered into and within California. This list shall include the name and address of all persons from whom eggs were purchased, to whom they were sold, and the amount of eggs involved in each transaction. Furthermore, the broker shall indicate whether the eggs involved in the transaction were graded or ungraded.

SEC. 123. Section 30801 of the Food and Agricultural Code is amended to read:

30801. (a) A board of supervisors may provide for the issuance of serially numbered metallic dog licenses pursuant to this section. The dog licenses shall be:

- (1) Stamped with the name of the county and the year of issue.
- (2) (A) Unless the board of supervisors designates the animal control department to issue the licenses, issued by the county clerk to owners of dogs who make application.

(B) The board of supervisors or animal control department may authorize veterinarians to issue the licenses to owners of dogs who make application.

(b) The licenses shall be issued for a period not to exceed two years.

(c) In addition to the authority provided in subdivisions (a) and (b), a license may be issued, as provided by this section, by a board of supervisors for a period not to exceed three years for dogs that have attained the age of 12 months, or older, and who have been vaccinated against rabies. The person to whom the license is to be issued pursuant to this subdivision may choose a license period as established by the board of supervisors of up to one, two, or three years. However, when issuing a license pursuant to this subdivision, the license period shall not extend beyond the remaining period of validity for the current rabies vaccination.

SEC. 124. Section 52489 of the Food and Agricultural Code is amended to read:

52489. It is unlawful for any person to violate the provisions of the United States Plant Variety Protection Act contained in Part J (commencing with Section 2531), Part K (commencing with Section 2541), or Part L (commencing with Section 2561) of Subchapter III of Chapter 57 of Title 7 of the United States Code, as enacted.

SEC. 125. Section 65520 of the Food and Agricultural Code is amended to read:

65520. As used in this chapter, the words in the following sections have the following meanings set forth hereafter unless otherwise apparent from the context.

SEC. 126. Section 66572 of the Food and Agricultural Code is amended to read:

66572. The commission or the director, in preparing a list of handlers to be used pursuant to this chapter, may omit from the list any person who functions as a handler, but who handles less than 250,000 pounds of iceberg lettuce during a marketing season. Any person so omitted from the list is not subject to this chapter, including the payment of any assessments, and is not qualified as a handler under this chapter. Any person omitted from a list pursuant to this section may be included on any subsequent list if found qualified as a handler at the time of preparing the list.

SEC. 127. Section 66663 of the Food and Agricultural Code is amended to read:

66663. After the effective date of suspension of the operation of the provisions of this chapter and of the commission, as provided in Section 66662, the operations of the commission shall be wound up and any moneys remaining held by the commission, collected by assessment and not required to defray the expenses of winding up and terminating

operations of the commission, shall be returned upon a pro rata basis to all handlers from whom assessments were collected in the immediately preceding current fiscal year. However, if the commission finds that the amounts so returnable are so de minimis as to make impractical the computation and remitting of such pro rata refund to such handlers, any moneys remaining after payment of all expenses of winding up and terminating operations shall be withdrawn from the approved depository and paid into the State Treasury as unclaimed trust moneys.

SEC. 128. Section 74028 of the Food and Agricultural Code is amended to read:

74028. "Producer districts" shall consist of the following:

(a) District 1 consists of Lake, Solano, Mendocino, Sonoma, Marin, and Napa Counties.

(b) District 2 consists of the City and County of San Francisco, and Santa Barbara, San Luis Obispo, Ventura, Monterey, San Benito, Santa Clara, Santa Cruz, Alameda, San Mateo, and Contra Costa Counties.

(c) District 3 consists of Butte, Colusa, Glenn, Sacramento, Shasta, Tehama, Yolo, Yuba, Trinity, Siskiyou, Modoc, Lassen, Plumas, Sierra, Sutter, Humboldt, and Del Norte Counties, and that portion of San Joaquin County north of State Highway 4.

(d) District 4 consists of Merced, Stanislaus, Mariposa, Calaveras, Amador, El Dorado, Placer, Nevada, and Tuolumne Counties, and that portion of San Joaquin County south of State Highway 4.

(e) District 5 consists of Fresno, Alpine, Mono, Inyo, and Madera Counties, and that portion of Kings and Tulare Counties north of Nevada Avenue (Avenue 192).

(f) District 6 consists of Kern County and that portion of Kings and Tulare Counties south of Nevada Avenue (Avenue 192).

(g) District 7 consists of Los Angeles, Orange, Riverside, San Bernardino, Imperial, and San Diego Counties.

SEC. 129. Section 78302 of the Food and Agricultural Code is amended to read:

78302. (a) Upon a finding by a two-thirds vote of the membership of the commission that the operation of this chapter has not tended to effectuate its declared purposes, the commission may recommend to the secretary that the operation of this chapter be suspended. However, any suspension shall not become effective until the expiration of the current marketing year.

(b) The secretary shall, upon receipt of the recommendation, or may, after a public hearing to review a petition filed with the secretary requesting a suspension signed by not less than 20 percent of the producers by number who produced not less than 20 percent of the volume of asparagus in the immediately preceding marketing year, hold a referendum among the producers to determine if the operations of the

commission shall be suspended. However, the secretary shall not hold a referendum as a result of the petition unless the petitioner shows, by a preponderance of evidence, that the operation of this chapter has not tended to effectuate its declared purposes.

(c) The secretary shall establish a referendum period that shall not be less than 10 days nor more than 60 days in duration. The secretary may prescribe additional procedures necessary to conduct the referendum. At the close of the established referendum period, the secretary shall tabulate the ballots filed during the period. The secretary shall suspend the operation of this chapter if the secretary finds that at least 40 percent of the total number of producers from the list established by the secretary have participated in the referendum and either one of the following has occurred:

(1) Sixty-five percent or more of the producers who voted in the referendum voted in favor of suspension, and the producers so voting marketed a majority of the total quantity of asparagus in the preceding marketing year by all of the producers who voted in the referendum.

(2) A majority of the producers who voted in the referendum voted in favor of suspension, and the producers so voting marketed 65 percent or more of the total quantity of asparagus in the preceding marketing year by all of the producers who voted in the referendum.

SEC. 130. Section 78690 of the Food and Agricultural Code is amended to read:

78690. (a) Within 15 days of the effective date of this chapter, the secretary shall establish a list of producers and handlers eligible to vote on implementation of this chapter. In establishing the list, the secretary may require that producers and handlers submit the names and mailing addresses of all producers and handlers. The secretary also may require that the information provided include the quantity of tomatoes produced by each producer and the quantity of tomatoes handled by each handler, or, in the alternative, may establish procedures for receiving the information at the time of the referendum vote specified in Section 78691. The request for the information shall be in writing and shall be filed within 10 days following receipt of the request.

(b) Any producer whose name does not appear on the appropriate list may have his or her name placed on the list by filing with the secretary a signed statement, identifying himself or herself as a producer or handler. Failure to be on the list does not exempt the person from paying assessments, and does not invalidate any industry votes conducted pursuant to this article.

(c) Proponents and opponents of the commission may contact producers on the lists in a form and manner prescribed by the secretary if all expenses associated with those contacts are paid in advance.

SEC. 131. Section 912.8 of the Government Code is amended to read:

912.8. Except as provided in Section 912.7, in the case of claims against the state, the board shall act on claims in accordance with that procedure as the board, by rule, may prescribe. It may hear evidence for and against the claims and, with the approval of the Governor, report to the Legislature those facts and recommendations concerning the claims as it deems proper. In making recommendations, the board may state and use any official or personal knowledge that any member may have regarding any claim. The board may authorize any employee of the state to perform the functions of the board under this part as are prescribed by the board.

SEC. 132. Section 1091.4 of the Government Code is amended to read:

1091.4. (a) As used in Section 1091, "remote interest" also includes a person who has a financial interest in a contract, if all of the following conditions are met:

(1) The agency of which the person is a board member is a special district serving a population of less than 5,000 that is a landowner voter district, as defined in Section 56050, that does not distribute water for any domestic use.

(2) The contract is for either of the following:

(A) The maintenance or repair of the district's property or facilities provided that the need for maintenance or repair services has been widely advertised. The contract will result in materially less expense to the district than the expense that would have resulted under reasonably available alternatives and review of those alternatives is documented in records available for public inspection.

(B) The acquisition of property that the governing board of the district has determined is necessary for the district to carry out its functions at a price not exceeding the value of the property, as determined in a record available for public inspection by an appraiser who is a member of a recognized organization of appraisers.

(3) The person did not participate in the formulation of the contract on behalf of the district.

(4) At a public meeting, the governing body of the district, after review of written documentation, determines that the property acquisition or maintenance and repair services cannot otherwise be obtained at a reasonable price and that the contract is in the best interests of the district, and adopts a resolution stating why the contract is necessary and in the best interests of the district.

(b) If a party to any proceeding challenges any fact or matter required by paragraph (2), (3), or (4) of subdivision (a) to qualify as a remote

interest under subdivision (a), the district shall bear the burden of proving this fact or matter.

SEC. 133. Section 6215 of the Government Code, as added by Chapter 1637 of the Statutes of 1982, is amended and renumbered to read:

6219. (a) Each department, commission, office, or other administrative agency of state government shall write each document that it produces in plain, straightforward language, avoiding technical terms as much as possible, and using a coherent and easily readable style.

(b) As used in this section, a "state agency document" means any contract, form, license, announcement, regulation, manual, memorandum, or any other written communication that is necessary to carry out the agency's responsibilities under the law.

SEC. 134. 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, if 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, 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. However, 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 (b) of Section 13951, 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 reflects the analysis or conclusions of the investigating officer.

Customer lists provided to a state or local police agency by an alarm or security company at the request of the agency shall be construed to be records subject to this subdivision.

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. However, the address of the victim of any crime defined by Section 220, 261, 261.5, 262, 264, 264.1, 273a, 273d, 273.5, 286, 288, 288a, 289, 422.6, 422.7, 422.75, or 646.9 of the Penal Code shall remain confidential. Address information obtained pursuant to this paragraph shall not be used directly or indirectly to sell a product or service to any individual or group of individuals, and the requester shall execute a declaration to that effect under penalty of perjury.

(g) Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination, except as provided for in Chapter 3 (commencing with Section 99150) of Part 65 of the Education Code.

(h) The contents of real estate appraisals or engineering or feasibility estimates and evaluations made for or by the state or local agency relative to the acquisition of property, or to prospective public supply and construction contracts, until all of the property has been acquired or all of the contract agreement obtained. However, the law of eminent domain shall not be affected by this provision.

(i) Information required from any taxpayer in connection with the collection of local taxes that is received in confidence and the disclosure of the information to other persons would result in unfair competitive disadvantage to the person supplying the information.

(j) Library circulation records kept for the purpose of identifying the borrower of items available in libraries, and library and museum materials made or acquired and presented solely for reference or exhibition purposes. The exemption in this subdivision shall not apply to records of fines imposed on the borrowers.

(k) Records, the disclosure of which is exempted or prohibited pursuant to federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege.

(l) Correspondence of and to the Governor or employees of the Governor's office or in the custody of or maintained by the Governor's Legal Affairs Secretary. However, 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 database 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. If 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 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) or Part 6.4 (commencing with Section 12699.50) 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) or Part 6.4 (commencing with Section 12699.50) 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) or Part 6.4 (commencing with

Section 12699.50) 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).

(5) The exemption from disclosure provided pursuant to this subdivision for the contracts, deliberative processes, discussions, communications, negotiations with health plans, impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff shall also apply to the contracts, deliberative processes, discussions, communications, negotiations with health plans, impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of applicants pursuant to Part 6.4 (commencing with Section 12699.50) of Division 2 of the Insurance Code.

(z) Records obtained pursuant to paragraph (2) of subdivision (c) of Section 2891.1 of the Public Utilities Code.

(aa) A document prepared by or for a state or 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.

(bb) (1) Records of the Managed Risk Medical Insurance Board related to activities governed by Part 8.7 (commencing with Section 2120) of Division 2 of the Labor Code, and that reveal the deliberative processes, discussions, communications, or any other portion of the negotiations with entities contracting or seeking to contract with the board, 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 8.7 (commencing with Section 2120) of Division 2 of the Labor Code on or after January 1, 2004, 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 8.7 (commencing with Section 2120) of Division 2 of the Labor 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).

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 (Section 158 of Subchapter II of Chapter 7 of Title 29 of the United States Code).

SEC. 135. Section 6254.17 of the Government Code is amended to read:

6254.17. (a) Nothing in this chapter shall be construed to require disclosure of records of the California Victim Compensation and Government Claims Board that relate to a request for assistance under Article 1 (commencing with Section 13950) of Chapter 5 of Part 4 of Division 3 of Title 2.

(b) This section shall not apply to a disclosure of the following information, if no information is disclosed that connects the information to a specific victim, derivative victim, or applicant under Article 1 (commencing with Section 13950) of Chapter 5 of Part 4 of Division 3 of Title 2:

(1) The amount of money paid to a specific provider of services.

(2) Summary data concerning the types of crimes for which assistance is provided.

SEC. 136. Section 7072 of the Government Code is amended to read:

7072. For purposes of this chapter, the following definitions shall apply:

(a) "Agency" means the Department of Housing and Community Development.

(b) "Date of original designation" means the earlier of the following:

(1) The date the eligible area receives designation as an enterprise zone by the agency pursuant to this chapter.

(2) In the case of an enterprise zone deemed designated pursuant to subdivision (e) of Section 7073, the date the enterprise zone or program

area received original designation by the agency pursuant to Chapter 12.8 (commencing with Section 7070) or Chapter 12.9 (commencing with Section 7080), as those chapters read prior to January 1, 1997.

(c) "Eligible area" means any of the following:

(1) An area designated as an enterprise zone pursuant to Chapter 12.8 (commencing with Section 7070), as it read prior to January 1, 1997, or as a targeted economic development area, neighborhood development area, or program area pursuant to Chapter 12.9 (commencing with Section 7080), as it read prior to January 1, 1997.

(2) A geographic area that, based upon the determination of the agency, fulfills at least one of the following:

(A) The proposed geographic area meets the Urban Development Action Grant criteria of the United States Department of Housing and Urban Development.

(B) The area within the proposed zone has experienced plant closures within the past two years affecting more than 100 workers.

(C) The city or county has submitted material to the agency for a finding that the proposed geographic area meets criteria of economic distress related to those used in determining eligibility under the Urban Development Action Grant Program and is therefore an eligible area.

(D) The area within the proposed zone has a history of gang-related activity, whether or not crimes of violence have been committed.

(3) A geographic area that meets at least two of the following criteria:

(A) The census tracts within the proposed zone have an unemployment rate not less than 3 percentage points above the statewide average for the most recent calendar year as determined by the Employment Development Department.

(B) The county of the proposed zone has more than 70 percent of the children enrolled in public school participating in the federal free lunch program.

(C) The median household income for a family of four within the census tracts of the proposed zone does not exceed 80 percent of the statewide median income for the most recently available calendar year.

(d) "Enterprise zone" means any area within a city, county, or city and county that is designated as an enterprise zone by the agency in accordance with Section 7073.

(e) "Governing body" means a county board of supervisors or a city council, as appropriate.

(f) "High technology industries" include, but are not limited to, the computer, biological engineering, electronics, and telecommunications industries.

(g) "Resident," unless otherwise defined, means a person whose principal place of residence is within a targeted employment area.

(h) “Targeted employment area” means an area within a city, county, or city and county that is composed solely of those census tracts designated by the United States Department of Housing and Urban Development as having at least 51 percent of its residents of low- or moderate-income levels, using either the most recent United States Department of Census data available at the time of the original enterprise zone application or the most recent census data available at the time the targeted employment area is designated to determine that eligibility. The purpose of a “targeted employment area” is to encourage businesses in an enterprise zone to hire eligible residents of certain geographic areas within a city, county, or city and county. A targeted employment area may be, but is not required to be, the same as all or part of an enterprise zone. A targeted employment area’s boundaries need not be contiguous. A targeted employment area does not need to encompass each eligible census tract within a city, county, or city and county. The governing body of each city, county, or city and county that has jurisdiction of the enterprise zone shall identify those census tracts whose residents are in the most need of this employment targeting. Only those census tracts within the jurisdiction of the city, county, or city and county that has jurisdiction of the enterprise zone may be included in a targeted employment area.

At least a part of each eligible census tract within a targeted employment area shall be within the territorial jurisdiction of the city, county, or city and county that has jurisdiction for an enterprise zone. If an eligible census tract encompasses the territorial jurisdiction of two or more local governmental entities, all of those entities shall be a party to the designation of a targeted employment area. However, any one or more of those entities, by resolution or ordinance, may specify that it shall not participate in the application as an applicant, but shall agree to complete all actions stated within the application that apply to its jurisdiction, if the area is designated.

Each local governmental entity of each city, county, or city and county that has jurisdiction of an enterprise zone shall approve, by resolution or ordinance, the boundaries of its targeted employment area, regardless of whether a census tract within the proposed targeted employment area is outside the jurisdiction of the local governmental entity.

SEC. 137. Section 8220 of the Government Code is amended to read:

8220. The Secretary of State may adopt rules and regulations to carry out the provisions of this chapter.

The regulations shall be adopted in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3).

SEC. 138. Section 8592.4 of the Government Code is amended to read:

8592.4. (a) The committee shall determine which agencies need new or upgraded communication equipment and shall establish a program for equipment purchase. In establishing this program, the board shall recommend the purchase of equipment that will enable state agencies to commence conforming to accepted industry standards for interoperability consistent with the public safety digital communications standards of the American National Standards Institute and the Telecommunications Information Association.

(b) This section may not be construed to mandate that a state or local governmental agency affected thereby is required to compromise its immediate mission or ability to function and carry out its existing responsibilities.

SEC. 139. Section 8869.84 of the Government Code is amended to read:

8869.84. (a) The committee shall, as soon as is practicable after the start of each calendar year, determine and announce the state ceiling for the calendar year.

(b) The entire state ceiling for each calendar year is hereby allocated to the committee to further allocate to state and local agencies as provided in this chapter.

(c) The committee shall prepare application forms and announce procedures for receipt and review of applications from state and local agencies desiring to issue private activity bonds.

(d) The committee may at any time, before or after granting any allocations in any calendar year to any state agencies or local agencies, announce priorities or reservations of any part of the state ceiling not theretofore allocated either for certain categories of bonds or categories of issuers.

(e) The committee may require any issuer making an application to the committee or MBTCAC for allocation of a portion of the state ceiling to make a deposit, as determined by the committee, of up to 1 percent of the portion requested. If an allocation is not given, the deposit shall be returned. If an allocation is given, the deposit shall be kept, in proportion to the amount of allocation given, until bonds are issued. Upon that issuance, the deposit shall be returned to the issuer in an amount equal to the product of (1) the amount of the deposit retained times (2) the ratio between the amount of bonds issued divided by the amount of allocation granted. If no bonds are issued prior to the expiration of the allocation, the deposit shall be kept, unless the committee determines there is good cause to return all or part of the deposit. Any portion of a deposit kept shall be deposited in the fund.

(f) The committee may transfer part of the state ceiling to the MBTCAC, to be used for qualified mortgage bonds and exempt facility bonds or for qualified residential rental projects, as those terms are used in the Internal Revenue Code, together referred to as “housing bonds,” with directions and conditions pursuant to which MBTCAC may allocate those amounts to issuers of housing bonds at both the state and local levels. In carrying out these functions, MBTCAC shall act solely as directed or authorized by the committee. If the committee makes the transfer to MBTCAC authorized by this subdivision, the references in Sections 8869.85, 8869.86, 8869.87, and 8869.88 to the “committee” shall, for purposes of any housing bonds, be deemed to mean MBTCAC.

(g) (1) The committee may establish the Extra Credit Teacher Home Purchase Program to provide federal mortgage credit certificates and reduced interest rate loans funded by mortgage revenue bonds to eligible teachers, principals, vice principals, assistant principals, and classified employees who agree to teach or provide administration or service in a high priority school. Priority for assistance shall be given to eligible teachers, principals, vice principals, and assistant principals.

(2) For purposes of this program, the following definitions shall apply:

(A) “High priority school” means a state K–12 public school that is ranked in the bottom half of the Academic Performance Index developed pursuant to subdivision (a) of Section 52052 of the Education Code. However, priority shall be given to schools that are ranked in the lowest three deciles.

(B) “Classified employee” means an employee of a school district, employed in a position not requiring certification qualifications.

(3) The committee may make reservations of a portion of future calendar year state ceiling limits for up to five future calendar years for that program. The committee may also make future allocations of the state ceiling for up to five years for any issuer under that program. Any future allocation made by the committee shall constitute an allocation of the state ceiling for a future year specified by the committee and shall be deemed to have been made on the first day of the future year so specified. The committee may condition allocations under the Extra Credit Teacher Home Purchase Program on any terms and conditions that the committee deems necessary or appropriate, including, but not limited to, the execution of a contract between the teacher, principal, vice principal, assistant principal, or classified employee and the issuer whereby the teacher, principal, vice principal, assistant principal, or classified employee agrees to comply with the terms and conditions of the program. The contract may include, among other things, an agreement by the teacher, principal, vice principal, assistant principal, or classified employee to teach or provide administration or service in a high priority

school for a minimum number of years, and provisions for enforcing the contract that the committee deems necessary or appropriate.

(4) If a teacher, principal, vice principal, assistant principal, or classified employee does not fulfill the requirements of a contract entered into pursuant to paragraph (3), the issuer of the mortgage credit certificate or mortgage revenue bond may recover as an assessment from the teacher, principal, vice principal, assistant principal, or classified employee a monetary amount equal to the lesser of (A) one-half of the teacher's, principal's, vice principal's, assistant principal's, or classified employee's net proceeds from the sale of the related residence or (B) the amount of monetary benefit conferred on the teacher, principal, vice principal, assistant principal, or classified employee as a result of the federal mortgage credit certificate or reduced interest rate loan funded by a mortgage revenue bond, offset by the amount of any federal recapture, as defined by Section 143(m) of the Internal Revenue Code. The assessment may be secured by a lien against the residence, which shall decline in amount over the term of the contract as the teacher, principal, vice principal, assistant principal, or classified employee fulfills the term of the contract, and which shall be collected at the time of sale of the residence. Any assessment collected pursuant to this paragraph shall be used for the issuer's costs in administering the Extra Credit Teacher Home Purchase Program. The issuers shall report annually to the committee the total amount of any assessments collected pursuant to this paragraph and how those assessments were used by the issuer.

(5) If the committee establishes the Extra Credit Teacher Home Purchase Program pursuant to this subdivision, the committee shall report annually to the Legislature the results of the program, including all of the following:

(A) The amount of state ceiling limits allocated to or reserved for the program.

(B) The agencies to which state ceiling limits were issued.

(C) The number of loans or mortgage credit certificates issued to teachers, principals, vice principals, assistant principals, and classified employees.

(D) The schools or school districts at which recipients of assistance are employed, aggregated by decile in which the schools rank on the Academic Performance Index and by the percentage of uncredentialed teachers employed at the schools.

(6) The committee shall not make any reservations of future calendar year state ceiling limits or future allocations of the state ceiling pursuant to this subdivision on or after January 1, 2004, unless a later enacted statute, that is enacted before January 1, 2004, deletes or extends that

date. However, reservations and allocations made prior to that date shall remain valid.

SEC. 140. Section 8880.325 of the Government Code is amended to read:

8880.325. The right of any person to a prize shall not be assignable, except that the payment of any prize may be assigned, in whole or in part, as provided by Section 8880.326 and this section under any of the following circumstances:

(a) An assignment executed by the prizewinner on a form approved by, and filed with, the commission during the prizewinner's lifetime in accordance with regulations adopted by the commission, to a trust that by its terms is revocable and that is established by the prizewinner for the benefit of the prizewinner as a beneficiary and governed by the laws of the state.

(b) An appropriate judicial order appointing a conservator or a guardian for the protection of the prizewinner or for adjudicating rights to, or ownership of, the prize.

(c) An assignment, as collateral, to a person to secure a loan pursuant to Division 9 (commencing with Section 9101) of the Commercial Code. The assignment as collateral of the right to receive payment of a prize shall be subject to all of the following:

(1) All security agreements, rights of the prizewinner, and rights of the secured creditor shall be determined pursuant to the laws of the state.

(2) In the event of a default under the loan or security agreement, the secured creditor's rights shall be limited to receiving the regular payments made by the lottery, based on the prizewinner's right to receive a regular prize payment until the obligation has been paid in full or the prize has been paid in full, whichever occurs first. Notwithstanding Division 9 (commencing with Section 9101) of the Commercial Code, the secured creditor shall not have the right to sell or assign the prizewinner's rights to payments to itself or to any other person. This section shall not limit the secured creditor's right to sell, assign, or transfer the obligation of the debtor and related security interest to a third party.

(3) The prizewinner and secured creditor may agree, and may jointly instruct the lottery, to directly deposit all prizewinning payments into an account maintained by the prizewinner at a federally insured financial institution located within the state. This account may be subject to the secured creditor's lien. Upon receipt of these instructions, the lottery shall continue to deposit all payments due the prizewinner into the account until the lottery receives notification from both the secured creditor and the prizewinner that the payments are to be made to an account maintained at another bank or that the secured creditor releases or terminates the security interest in the prizewinner's payments.

(4) (A) The prizewinner, pursuant to an order of the court obtained in compliance with subdivision (d), may direct the lottery to make the prize payments, in whole or in part, directly to the secured creditor. A direction to the lottery to make a prize payment to a secured creditor shall not, in itself, constitute an assignment of the prize payment to the secured creditor.

(B) For purposes of this paragraph and subdivision (d), “assignee” and “secured creditor” are synonymous, and “assignment” or “prize payment” means the payment that is directed to be paid to the secured creditor.

(5) For purposes of perfecting the security interest of the secured creditor, the right of the prizewinner to receive payments is deemed to be a contract right that is perfected by the filing of a financing statement with the office of the Secretary of State.

(6) A copy of the security agreement, an endorsed copy of the financing statement, and the joint instruction to deposit the prizewinner’s payments directly into an account, if any, at the financial institution shall be filed with the lottery. Notwithstanding the security interest granted a creditor, all lottery payments shall be made payable directly to the prizewinner, except as follows:

(A) Payments sent directly to the financial institution designated pursuant to paragraph (3).

(B) In the event of a default under the security agreement or obligation it secures, payments sent directly to the secured creditor pursuant to an order of a court of competent jurisdiction determining that the payments are to be made directly to the secured creditor.

(7) Upon the termination or release of the security interest, the secured creditor shall file an endorsed copy of the release or termination of the security interest with the lottery.

(d) Except as provided in subdivision (j), an assignment of future payments to another person designated pursuant to an appropriate judicial order of a California superior court or a federal court having jurisdiction over property located within California, if the court determines and states in its order all of the following:

(1) That the prizewinner was represented by independent legal counsel whose name and State Bar of California number appears as counsel of record on all pleadings filed in any and all court proceedings. The prizewinner’s legal counsel shall appear as counsel of record at any proceedings that are required by the court.

(2) That the prizewinner has represented to the court either by sworn testimony if a personal appearance is required by the court, or by written declaration filed with the court under penalty of perjury, and that the court has determined these representations to be true and correct, that the prizewinner (A) has reviewed and understands the terms and effects of

the assignment, (B) understands that he or she will not receive the prize payments or portions thereof for the years assigned, (C) has entered into the agreement of his or her own free will without undue influence or duress and not under the influence of drugs or alcohol, (D) has had an opportunity to retain independent financial and tax advice, and (E) has been represented by independent legal counsel, who has advised the prizewinner of his or her legal rights and obligations under the assignment.

(3) It shall be the responsibility of the prizewinner to bring to the attention of the court, either by sworn testimony or by written declaration submitted under penalty of perjury, the existence or nonexistence of a current spouse. If married, the prizewinner shall identify his or her spouse and submit to the court a signed and notarized statement wherein the spouse consents to the assignment. If the prizewinner is married and the notarized statement is not presented to the court, the court shall determine, to the extent necessary and as appropriate under applicable law, the ability of the prizewinner to make the proposed assignment without the spouse's consent.

(4) The specific prize payment or payments assigned, or any portion thereof, including the dates and amounts of the payments to be assigned, the years in which each payment is to begin and end, the gross amount of the annual payments assigned before taxes, the prizewinner's name as it appears on the lottery claim form, the full legal name of the assignor if different than the prizewinner's name as it appears on the lottery claim form, the assignor's social security or tax identification number, the assignee's full legal name and social security or tax identification number, and, if applicable, the citizenship or resident alien number of the assignee if a natural person.

(5) Expressly identifies the amount, the date if available, any nonspouse coowner, claimant, or lienholder, and the interests, liens, security interests, assignments, or offsets asserted by the state or other persons against any of the prize payments, including, but not limited to, those payments that are the subject of the proposed assignment as those interests, liens, security interests, assignments, or offsets have been represented to the court by the prizewinner in a written declaration signed under penalty of perjury and filed with the court.

(6) That the lottery and the State of California are not parties to the proceeding and that the lottery and the state may rely upon the order in disbursing the prize payments that are the subject of the order. Further, that upon payment of prize moneys pursuant to an order of the court, the lottery, the director, the commission, and the employees of the lottery and the state shall be discharged of any and all liability for the prize paid, and these persons and entities shall have no duty or obligation to any

person asserting another interest in, or right to receive, the prize payment.

(7) That the prizewinner or the proposed assignee has obtained and filed with the court a notification from the lottery of any liens, levies, or claims, and the Controller's office of any offsets asserted as of that time against the prizewinner, as reflected in their respective official records as of the time of the notification. The date of the notification shall not be more than 20 days prior to the court hearing, unless extended by the court.

(e) The assignment of the right to receive any prize payment or payments by the prizewinner pursuant to subdivision (d) shall be conditioned on the following terms, conditions, and rights, which may not be waived or modified by the prizewinner:

(1) The payment of moneys to, or on behalf of, the prizewinner by the assignee in consideration for the assignment of the prize payment or payments shall be made in full prior to the time when, under the terms of the assignment, the lottery is required to make the first prize payment to the assignee, or may be made in two installments, the first being paid prior to the time when, under the terms of the assignment, the lottery is required to make the first prize payment to the assignee and the second installment within 11 months thereafter. The second installment shall not be in an amount that exceeds the first installment.

(2) If the prizewinner elects to accept the consideration to be paid for the assignment in two installments as provided in paragraph (1), the prizewinner shall have a special lien for the balance of any payment due, effective without any further action, agreement, or notice, on any of the prize payments assigned by the prizewinner for the payment of moneys from the assignee. This lien shall terminate upon the prizewinner receiving actual payment of the moneys. The tendering of a check, payment instrument, or recital of payment shall not constitute actual payment of moneys for the purposes of this paragraph.

(3) The Legislature finds and declares that the creation of a statutory lien in favor of a prizewinner is necessary to protect the rights of the prizewinner from any creditors, subsequent bankruptcy trustees of the assignee, or from any subsequent assignees when the prizewinner has not received full payment for the assigned prize payments.

(f) Prior to the assignment of any prize as provided in subdivisions (c) and (d), the Controller shall determine whether the prizewinner owes any obligation that is subject to offset under Article 2 (commencing with Section 12410) of Chapter 5 of Part 2 of Division 3 and shall provide written notification of that determination to the lottery and to the Secretary of State.

(g) If the lottery determines that the court order issued pursuant to subdivision (d) is complete and correct in all respects, the lottery shall

send the prizewinner and the assignee or assignees written confirmation of receipt of the court-ordered assignment and of the lottery's intention to rely thereon in making future payments to the assignee or assignees named in the court order.

(h) Notwithstanding any other provision of law, by entering into an agreement to assign any prize payments pursuant to subdivision (c) or (d), a prizewinner shall be deemed to have waived any statutory period of limitation as to the State of California enforcing any rights against annual prize payments due after the last assigned payment is paid or released, if assigned as collateral, from the lien granted the secured creditor. No assignment of prize payments pursuant to either subdivision (c) or (d) shall be valid or allowed for the final three annual prize payments from the lottery to the prizewinner.

(i) Any loans made to a prizewinner pursuant to this section shall be exempt from the usury provisions of Article XV of the California Constitution with respect to an assignment of a lottery prize as collateral to secure a loan.

(j) (1) Notwithstanding any other provision of this section, no prizewinner shall have the right to assign prize payments pursuant to subdivision (d) or direct the payment of a prize pursuant to paragraph (4) of subdivision (c) if any of the following occurs:

(A) The issuance by the United States Internal Revenue Service (IRS) of a technical rule letter, revenue ruling, or other public ruling of the IRS in which the IRS determines that, based upon the right of assignment provided in subdivision (d), a California lottery prizewinner who does not assign any prize payments pursuant to subdivision (d) would be subject to an immediate income tax liability for the value of the entire prize rather than annual income tax liability for each installment when paid.

(B) The issuance by a court of competent jurisdiction of a published decision holding that, based upon the right of assignment provided in subdivision (d), a California lottery prizewinner who does not assign any prize payments pursuant to subdivision (d) would be subject to an immediate income tax liability for the value of the entire prize rather than annual income tax liability for each installment when paid.

(2) Upon receipt of a letter or ruling from the IRS or a published decision of a court of competent jurisdiction, as specified in paragraph (1), the director shall immediately file a copy of that letter, ruling, or published decision with the Secretary of State.

Immediately upon the filing by the director of a letter, ruling, or published decision with the Secretary of State, a prizewinner shall be ineligible to assign a prize pursuant to subdivision (d) or direct the payment of a prize pursuant to paragraph (4) of subdivision (c).

SEC. 141. Section 10205.1 of the Government Code is amended to read:

10205.1. (a) Notwithstanding Sections 18523, 18900, 18901, 18930, 18930.5, 18931, 18933, 18936, 18937, 18938.5, 18939, 18950, 19050, 19052, 19054, 19054.1, 19057, 19057.1, 19057.2, 19057.4, 19081, and 19101, or any other provision of law, but consistent with the merit principles of subdivision (b) of Section 1 of Article VII of the California Constitution, the Legislative Counsel Bureau appointing authority may assign persons to classifications and ranges, conduct examinations, and make appointments as specified by this section. The purpose of this section is to improve the management of the Legislative Data Center, a division of the Legislative Counsel Bureau, and to provide the Legislative Counsel Bureau with greater flexibility and adaptability reflective of the information technology profession.

(b) The Legislative Counsel Bureau appointing authority may, as a consolidation of the information technology classifications otherwise available to the bureau, utilize the band classifications of information systems supervisor/manager, information technology specialist, and information technician, as available to the bureau on January 1, 2003, under the demonstration project described in Section 1 of the act that added this section, as those classifications may subsequently be modified by the State Personnel Board, or into other information technology classifications established by the State Personnel Board. Each of these band classifications is hereby divided into the ranges that existed in that classification on January 1, 2003, under that demonstration project, which ranges may be modified as provided for by the State Personnel Board, including the delegation of authority to the Legislative Counsel Bureau appointing authority.

(c) Through the delegation of authority to the Legislative Counsel Bureau appointing authority or otherwise, the State Personnel Board shall provide for the allocation, as appropriate, of employees of the bureau having civil service status to the appropriate classification and range authorized pursuant to this section and shall grant to each employee the same civil service status in that classification and range without further examination.

(d) The Legislative Counsel Bureau appointing authority may conduct competitive examinations on a position-by-position basis for the information technology classifications described in this section and make appointments for information technology positions either in the manner described in Article 6 (commencing with Section 549.70) of Subchapter 4 of Chapter 1 of Division 1 of Title 2 of the California Code of Regulations in effect on January 1, 2003, or in any other manner approved by the State Personnel Board. In its exercise of authority under this subdivision pursuant to Article 6 (commencing with Section

549.70) of Subchapter 4 of Chapter 1 of Division 1 of Title 2 of the California Code of Regulations, the Legislative Counsel Bureau appointing authority shall rank each examination candidate in the manner specified in Article 4 (commencing with Section 548.30) and Article 5 (commencing with Section 548.40) of Subchapter 2 of Chapter 1 of Division 1 of Title 2 of the California Code of Regulations.

SEC. 142. Section 12012.30 of the Government Code is amended to read:

12012.30. The tribal-state gaming compact entered into in accordance with the Indian Gaming Regulatory Act of 1988 (18 U.S.C. Secs. 1166 to 1168, incl., and 25 U.S.C. Sec. 2701 et seq.) between the State of California and the Torres-Martinez Desert Cahuilla Indians, executed on August 12, 2003, is hereby ratified.

SEC. 143. Section 12080.3 of the Government Code is amended to read:

12080.3. Each reorganization plan transmitted by the Governor under this article:

(a) May change the name of any agency affected by a reorganization and the title of its head, and shall designate the name of any agency resulting from a reorganization and the title of its head.

(b) May include provisions, in accordance with Article VII of the California Constitution, for the appointment of the head and one or more other officers of any agency, including an agency resulting from a consolidation or other type of reorganization, if the Governor finds, and in his or her message transmitting the plan declares, that by reason of a reorganization made by the plan the provisions are in the public interest. The head may be an individual or a commission or board with two or more members. In any case, the appointment of the agency head shall be subject to confirmation by the Senate. The term of office of any appointee, if any is provided, shall be fixed at not more than four years. The Legislature shall fix the compensation of all department heads and officers who are not subject to Article VII of the California Constitution.

(c) Shall provide for the transfer of employees serving in the state civil service, other than temporary employees, who are engaged in the performance of a function transferred to another agency or engaged in the administration of a law, the administration of which is transferred to the agency, by the reorganization plan. The status, positions, and rights of those persons shall not be affected by their transfer and shall continue to be retained by them pursuant to the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5), except as to positions the duties of which are vested in a position exempt from civil service.

(d) Shall provide for the transfer or other disposition of the personnel records and property affected by any reorganization.

(e) Shall provide for the transfer of unexpended balances of appropriations and of other funds available for use in connection with any function or agency affected by a reorganization, as the Governor deems necessary by reason of the reorganization, for use in connection with the functions affected by the reorganization or for the use of the agency that has these functions after the reorganization plan becomes effective. Transferred balances shall be used only for the purpose for which the appropriation was originally made.

(f) Shall provide for terminating the affairs of any agency abolished.

(g) Shall enumerate all acts of the Legislature that will be suspended if the reorganization plan becomes effective.

SEC. 144. Section 12598 of the Government Code is amended to read:

12598. (a) The primary responsibility for supervising charitable trusts in California, for ensuring compliance with trusts and articles of incorporation, and for protection of assets held by charitable trusts and public benefit corporations, resides in the Attorney General. The Attorney General has broad powers under common law and California statutory law to carry out these charitable trust enforcement responsibilities. These powers include, but are not limited to, charitable trust enforcement actions under all of the following:

(1) This article.

(2) Title 8 (commencing with Section 2223) of Part 4 of Division 3 of the Civil Code.

(3) Division 2 (commencing with Section 5000) of Title 1 of the Corporations Code.

(4) Sections 8111, 11703, 15004, 15409, 15680 to 15685, inclusive, 16060 to 16062, inclusive, 16064, and 17200 to 17210, inclusive, of the Probate Code.

(5) Chapter 5 (commencing with Section 17200) of Part 2 of Division 7 of the Business and Professions Code, and Sections 17500 and 17535 of the Business and Professions Code.

(6) Sections 319, 326.5, and 532d of the Penal Code.

(b) The Attorney General shall be entitled to recover from defendants named in a charitable trust enforcement action all reasonable attorney's fees and actual costs incurred in conducting that action, including, but not limited to, the costs of auditors, consultants, and experts employed or retained to assist with the investigation, preparation, and presentation in court of the charitable trust enforcement action.

(c) Attorney's fees and costs shall be recovered by the Attorney General pursuant to court order. When awarding attorneys' fees and costs, the court shall order that the attorney's fees and costs be paid by the charitable organization and the individuals named as defendants in

or otherwise subject to the action, in a manner that the court finds to be equitable and fair.

(d) Upon a finding by the court that a lawsuit filed by the Attorney General was frivolous or brought in bad faith, the court may award the defendant charity the costs of that action.

(e) (1) The Attorney General may refuse to register or may revoke or suspend the registration of a charitable corporation or trustee, commercial fundraiser, fundraising counsel, or coventurer whenever the Attorney General finds that the charitable corporation or trustee, commercial fundraiser, fundraising counsel, or coventurer has violated or is operating in violation of any provisions of this article.

(2) All actions of the Attorney General shall be taken subject to the rights authorized pursuant to Chapter 4.5 (commencing with Section 11400) of Part 1 of Division 3 of Title 2.

SEC. 145. Section 13995.20 of the Government Code is amended to read:

13995.20. Unless the context otherwise requires, the definitions in this section govern the construction of this chapter.

(a) "Appointed commissioner" means a commissioner appointed by the Governor.

(b) "Assessed business" means a person required to pay an assessment pursuant to this chapter, and until the first assessment is levied, any person authorized to vote for the initial referendum. An assessed business shall not include a public entity or a corporation when a majority of the corporation's board of directors is appointed by a public official or public entity, or serves on the corporation's board of directors by virtue of being elected to public office, or both.

(c) "Commission" means the California Travel and Tourism Commission.

(d) "Elected commissioner" means a commissioner elected pursuant to subdivision (d) of Section 13995.40.

(e) "Industry category" means the following classifications within the tourism industry:

- (1) Accommodations.
- (2) Restaurants and retail.
- (3) Attractions and recreation.
- (4) Transportation and travel services.

(f) "Industry segment" means a portion of an industry category. For example, rental cars are an industry segment of the transportation and travel services industry category.

(g) "Office" means the Office of Tourism, also popularly referred to as the Division of Tourism, within the Business, Transportation and Housing Agency.

(h) "Person" means an individual, public entity, firm, corporation, association, or any other business unit, whether operating on a for-profit or nonprofit basis.

(i) "Referendum" means any vote by mailed ballot of measures recommended by the commission and approved by the secretary pursuant to Section 13995.60, except for the initial referendum, which shall consist of measures contained in the selection committee report, discussed in Section 13995.30.

(j) "Secretary" means the Secretary of Business, Transportation and Housing.

(k) "Selection Committee" means the Tourism Selection Committee described in Article 3 (commencing with Section 13995.30).

SEC. 146. Section 13995.40 of the Government Code is amended to read:

13995.40. (a) Upon approval of the initial referendum, the office shall establish a nonprofit mutual benefit corporation named the California Travel and Tourism Commission. The commission shall be under the direction of a board of commissioners, which shall function as the board of directors for purposes of the Nonprofit Corporation Law.

(b) The board of commissioners shall consist of 37 commissioners comprising the following:

(1) The secretary, who shall serve as chairperson.

(2) Twelve members, who are professionally active in the tourism industry, representing each of the 12 officially designated tourism regions and diverse elements of the industry, shall be appointed by the Governor. Appointed commissioners are not limited to assessed businesses.

(3) Twenty-four elected commissioners, including at least one representative of a travel agency or tour operator that is an assessed business.

(c) The commission established pursuant to Section 15364.52 shall be inoperative so long as the commission established pursuant to this section is in existence.

(d) Elected commissioners shall be elected by industry category in a referendum. Regardless of the number of ballots received for a referendum, the nominee for each commissioner slot with the most weighted votes from assessed businesses within that industry category shall be elected commissioner. In the event that an elected commissioner resigns, dies, or is removed from office during his or her term, the commission shall appoint a replacement from the same industry category that the commissioner in question represented, and that commissioner shall fill the remaining term of the commissioner in question. The number of commissioners elected from each industry

category shall be determined by the weighted percentage of assessments from that category.

(e) The secretary may remove any elected commissioner following a hearing at which the commissioner is found guilty of abuse of office or moral turpitude.

(f) With the exception of the secretary, no commissioner shall serve for more than two consecutive terms.

(g) Except for the original commissioners, all commissioners shall serve four-year terms. One-half of the commissioners originally appointed or elected shall serve a two-year term, while the remainder shall serve a four-year term. Every two years thereafter, one-half of the commissioners shall be appointed or elected by referendum.

(h) The selection committee shall determine the initial slate of candidates for elected commissioners. Thereafter the commissioners, by adopted resolution, shall nominate a slate of candidates, and shall include any additional candidates complying with the procedure described in Section 13995.62.

(i) The commissioners shall elect a vice chairperson from the elected commissioners.

(j) The commission may lease space from the office.

(k) The commission and the office shall be the official state representatives of California tourism.

(l) All commission meetings shall be held in California.

(m) No person shall receive compensation for serving as a commissioner, but each commissioner shall receive reimbursement for reasonable expenses incurred while on authorized commission business.

(n) Assessed businesses shall vote only for commissioners representing their industry category.

(o) Commissioners shall comply with the requirements of the Political Reform Act of 1974 (Title 9 (commencing with Section 81000)). The Legislature finds and declares that commissioners appointed or elected on the basis of membership in a particular tourism segment are appointed or elected to represent and serve the economic interests of those tourism segments and that the economic interests of these members are the same as those of the public generally.

(p) Commission meetings shall be subject to the requirements of the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1).

(q) The executive director of the commission shall serve as secretary to the commission, a nonvoting position, and shall keep the minutes and records of all commission meetings.

SEC. 147. Section 13995.42 of the Government Code is amended to read:

13995.42. (a) The commission is a separate, independent California nonprofit mutual benefit corporation. Except as provided in Section 13995.43, the staff of the commission shall be employees solely of the commission, and the procedures adopted by the commission shall not be subject to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1).

(b) Not later than six months following the initial referendum, the commission shall adopt procedures concerning the operation of the commission in order to provide due process rights for assessed businesses.

(c) In the event that the commission fails to adopt the procedures described in subdivision (b) within the specified timeframe, the secretary shall adopt procedures for use by the commission until the commission adopts its own procedures. These procedures shall be exempt from the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1), whether adopted by the commission or secretary.

SEC. 148. Section 13995.58 of the Government Code is amended to read:

13995.58. The office may contract with the commission in order for the commission to undertake marketing activities utilizing state funds. Section 10295 of the Public Contract Code, and Article 4 (commencing with Section 10335) and Article 5 (commencing with Section 10355) of Chapter 2 of Part 2 of Division 2 of the Public Contract Code, shall not apply to those agreements.

SEC. 149. Section 13995.65 of the Government Code is amended to read:

13995.65. (a) Each industry category shall establish a committee to determine the following within its industry category: industry segments, assessment formula for each industry segment, and any types of business exempt from assessment. The initial segment committees shall consist of the subcommittee for that category as described in subdivision (d) of Section 13995.30. Following approval of the assessment by referendum, the committees shall be selected by the commission, based upon recommendations from the tourism industry. Committee members need not be commission members.

(b) The committee recommendations shall be presented to the commission or selection committee, as applicable. The selection committee may adopt a resolution specifying some or all of the items listed in subdivision (a), plus an allocation of the overall assessment among industry categories. The commission may adopt a resolution specifying one or more of the items listed in subdivision (a), plus an allocation of the proposed assessment. The selection committee and commission are not required to adopt the findings of any committee.

(c) The initial industry category and industry segment allocations shall be included in the selection committee report required by subdivision (b) of Section 13995.30. Changes to the industry segment allocation formula may be recommended to the commission by a segment committee at the biennial commission meeting scheduled to approve the referendum resolution pursuant to Section 13995.60. At the same meeting, the commission may amend the percentage allocations among industry categories. Any item discussed in this section that is approved by resolution of the commission, except amendments to the percentage allocations among industry categories, shall be placed on the next referendum, and adopted if approved by the majority of weighted votes cast.

(d) Upon approval by referendum, the office shall mail an assessment bill to each assessed business. The secretary shall determine how often assessments are collected, based upon available staffing resources. The secretary may stagger the assessment collection throughout the year, and charge businesses a prorated amount of assessment because of the staggered assessment period. The secretary and office shall not divulge the amount of assessment or weighted votes of any assessed businesses, except as part of an assessment action.

(e) An assessed business may appeal an assessment to the secretary based upon the fact that the business does not meet the definition established for an assessed business within its industry segment or that the level of assessment is incorrect. An appeal brought under this subdivision shall be supported by substantial evidence submitted under penalty of perjury by affidavit or declaration as provided in Section 2015.5 of the Code of Civil Procedure. If the error is based upon failure of the business to provide the required information in a timely manner, the secretary may impose a fee for reasonable costs incurred by the secretary in correcting the assessment against the business as a condition of correcting the assessment.

(f) Notwithstanding any other provision of law, an assessed business may pass on some or all of the assessment to customers. An assessed business that is passing on the assessment may, but shall not be required to, separately identify or itemize the assessment on any document provided to a customer. Assessments levied pursuant to this chapter and passed on to customers are not part of gross receipts or gross revenue for any purpose, including the calculation of sales or use tax and income pursuant to any lease. However, assessments that are passed on to customers shall be included in gross receipts for purposes of income and franchise taxes.

(g) For purposes of calculating the assessment for a business with revenue in more than one industry category or industry segment, that business may elect to be assessed based on either of the following:

(1) The assessment methodology and rate of assessment applicable to each category or segment, respectively, as it relates to the revenue that it derives from that category or segment.

(2) With respect to its total revenue from all industry categories or segments, the assessment methodology and rate of assessment applicable to the revenue in the category and segment in which it earns the most gross revenue.

SEC. 150. Section 13995.74 of the Government Code is amended to read:

13995.74. In lieu of requiring advance deposits pursuant to Section 13995.73, or in order generally to provide funds for defraying administrative expenses or the expenses of implementing the tourism marketing plan until the time that sufficient moneys are collected for this purpose from the payment of the assessments that are established pursuant to this chapter, the secretary may receive and disburse for the express purposes contributions that are made by assessed businesses. If, however, collections from the payment of established assessments are sufficient to so warrant, the secretary shall authorize the repayment of contributions, or authorize the application of the contributions to the assessment obligations of persons that made the contributions.

SEC. 151. Section 13997.1 of the Government Code is amended to read:

13997.1. (a) The Governor shall instruct the Secretary of Business, Transportation and Housing to establish, on a contract basis, an international trade and investment office in Yerevan, in the Republic of Armenia, to serve the region of Eastern Europe and Western Asia.

(b) The secretary shall report to the Legislature on the success of the international trade and investment office in Yerevan no later than March 1, 2005. The report shall include, but not be limited to, all of the following:

(1) The level of investment and tourism directed to California as a direct result of the international trade and investment office.

(2) The level of imports sent to California as a direct result of the international trade and investment office.

(3) The level of California exports sent to the region of Eastern Europe and Western Asia as a direct result of the international trade and investment office.

(4) A cost-benefit analysis of the international trade and investment office.

(5) An analysis of the costs and outcomes of the international trade and investment office compared with those of the other international trade and investment offices.

(c) This section shall be implemented only to the extent that funds are available to the Business, Transportation and Housing Agency for this

purpose from any source, including, but not limited to, federal funding and private donations authorized pursuant to Section 13997. Private donations made pursuant to Section 13997 and specified for the international trade and investment office in Yerevan shall be deposited in a separate subaccount within the Economic Development and Trade Promotion Account and may be used only for the operation of this office.

(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. 152. Section 14055.2 of the Government Code is amended to read:

14055.2. Funds made available to the department shall be allocated as follows:

(a) Not more than 5 percent of the annual federal apportionment may be retained by the department for the cost of administering grants.

(b) The remaining funds shall be allocated by the department, as directed by the commission, consistent with Section 14055.

SEC. 153. Section 18215 of the Government Code is amended to read:

18215. (a) Except as provided in subdivision (b), regulations concerning the following shall be subject to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3):

(1) Representation of minorities, women, and persons with disabilities in the state workforce.

(2) Equal employment opportunities.

(3) Board hearing procedures relating to public testimony and participation, except a procedure that is expressly required by statute.

(4) Disciplinary hearing procedures not mandated by statutes, court decisions, or board precedential decisions. However, rulings within the discretion of an administrative law judge are not subject to this article.

(5) Drug testing.

(6) Grounds for employee discipline.

(7) Reasonable accommodation.

(b) Notwithstanding subdivision (a), the following provisions of the Administrative Procedure Act shall not apply to regulations concerning the subjects specified in subdivision (a):

(1) Section 11346.14.

(2) Paragraph (1) of subdivision (a) of, and paragraphs (4), (5), and (6) of subdivision (b) of, Section 11346.2.

(3) Section 11346.3.

(4) Paragraph (3) of subdivision (a) of Section 11346.4.

(5) Subparagraph (B) of paragraph (3) of, and paragraphs (5) and (7) to (12), inclusive, of, subdivision (a) of Section 11346.5.

- (6) Paragraphs (2), (4), and (5) of subdivision (a) of Section 11346.9.
- (7) Paragraphs (3) and (4) of subdivision (a) of Section 11347.3.
- (8) Subdivisions (a), (e), and (f) of Section 11349.
- (9) Paragraphs (1), (5), and (6) of subdivision (a) of, and paragraph (3) of subdivision (d) of, Section 11349.1.

SEC. 154. Section 19063.1 of the Government Code is amended to read:

19063.1. Each state agency that intends to establish qualified hiring pools, as defined by the State Personnel Board, for seasonal or entry level nontesting class employment shall notify the Employment Development Department or its delegate in the area where the openings are expected to occur at least 45 calendar days prior to the establishment of the pool. The state agency shall request referrals of public assistance recipients and at the same time shall provide necessary job-related information.

SEC. 155. Section 19582.1 of the Government Code is amended to read:

19582.1. Notwithstanding Section 19582, this section shall apply to state employees in State Bargaining Unit 8.

(a) The board's review of decisions of minor discipline, as defined by a memorandum of understanding or by Section 19576.5, shall be limited to either adopting the penalty of the proposed decision or revoking the disciplinary action in its entirety.

(b) The board's review of decisions of discipline, including minor discipline, shall not impose any discipline against an employee that would jeopardize the employee's status under the federal Fair Labor Standards Act, as set forth pursuant to Section 13(a)(1) of The Fair Labor Standards Act of 1938, as amended (29 U.S.C. Sec. 213(a)(1)) and in Part 54 of Title 29 of the Code of Federal Regulations, as defined and delimited on the effective date of this section and as those provisions may be amended in the future.

(c) If 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 provision shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 156. Section 19826 of the Government Code is amended to read:

19826. (a) The department shall establish and adjust salary ranges for each class of position in the state civil service subject to any merit limits contained in Article VII of the California Constitution. The salary range shall be based on the principle that like salaries shall be paid for

comparable duties and responsibilities. In establishing or changing these ranges, consideration shall be given to the prevailing rates for comparable service in other public employment and in private business. The department shall make no adjustments that require expenditures in excess of existing appropriations that may be used for salary increase purposes. The department may make a change in salary range retroactive to the date of application of this change.

(b) Notwithstanding any other provision of law, the department shall not establish, adjust, or recommend a salary range for any employees in an appropriate unit where an employee organization has been chosen as the exclusive representative pursuant to Section 3520.5.

(c) At least six months before the end of the term of an existing memorandum of understanding or immediately upon the reopening of negotiations under an existing memorandum of understanding, the department shall submit to the parties meeting and conferring pursuant to Section 3517 and to the Legislature, a report containing the department's findings relating to the salaries of employees in comparable occupations in private industry and other governmental agencies.

(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 shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 157. Section 20035.2 of the Government Code is amended to read:

20035.2. Notwithstanding Sections 20035 and 20037, "final compensation," for the purpose of determining any pension or benefit with respect to a patrol member who retires or dies on or after July 1, 2003, who was a member of State Bargaining Unit 5, and whose monthly salary range that was to be effective July 1, 2003, was reduced by 5 percent pursuant to an addendum to a memorandum of understanding entered during the 2003-04 fiscal year, means the highest annual compensation the patrol member would have earned as of July 1, 2003, if that 5-percent reduction had not occurred. This section shall apply only if the period during which the patrol member's salary was reduced would have otherwise been included in determining his or her final compensation. The increased costs, if any, that may result from the application of the definition of "final compensation" provided in this section shall be paid by the employer in the same manner as other retirement benefits are funded.

SEC. 158. Section 20035.3 of the Government Code is amended to read:

20035.3. Notwithstanding Sections 20035 and 20037, “final compensation,” for the purpose of determining any pension or benefit with respect to a state miscellaneous or peace officer/firefighter member who retires or dies on or after July 1, 2003, who was a member of State Bargaining Unit 8, and whose monthly salary range that was to be effective July 1, 2003, was reduced by 5 percent pursuant to an addendum to a memorandum of understanding entered during the 2003–04 fiscal year, means the highest annual compensation the member would have earned as of July 1, 2003, if that 5-percent reduction had not occurred. This section shall apply only if the period during which the member’s salary was reduced would have otherwise been included in determining his or her final compensation. The increased costs, if any, that may result from the application of the definition of “final compensation” provided in this section shall be paid by the employer in the same manner as other retirement benefits are funded.

SEC. 159. Section 20035.4 of the Government Code is amended to read:

20035.4. Notwithstanding Sections 20035 and 20037, “final compensation,” for the purpose of determining any pension or benefit with respect to a member who retires or dies on or after July 1, 2003, who was a member of State Bargaining Unit 16, and whose monthly salary range that was to be effective July 1, 2003, was reduced by 5 percent pursuant to a memorandum of understanding entered during the 2003–04 fiscal year, means the highest annual compensation the member would have earned as of July 1, 2003, if that 5-percent reduction had not occurred. This section shall apply only if the period during which the member’s salary was reduced would have otherwise been included in determining his or her final compensation. The increased costs, if any, that may result from the application of the definition of “final compensation” provided in this section shall be paid by the employer in the same manner as other retirement benefits are funded.

SEC. 160. Section 20035.5 of the Government Code, as added by Chapter 615 of the Statutes of 2003, is amended and renumbered to read:

20035.6. Notwithstanding Sections 20035 and 20037, “final compensation,” for the purpose of determining any pension or benefit with respect to a member who retires or dies on or after July 1, 2003, who was a member of State Bargaining Unit 19, and whose monthly salary range that was to be effective July 1, 2003, was reduced by 5 percent pursuant to a memorandum of understanding entered during the 2003–04 fiscal year, means the highest annual compensation the member would have earned as of July 1, 2003, if that 5-percent reduction had not occurred. This section shall apply only if the period during which

the member's salary was reduced would have otherwise been included in determining his or her final compensation. The increased costs, if any, that may result from the application of the definition of "final compensation" provided in this section shall be paid by the employer in the same manner as other retirement benefits are funded.

SEC. 161. Section 20035.10 of the Government Code is amended to read:

20035.10. (a) Notwithstanding Sections 20035 and 20037, "final compensation," for the purpose of determining any pension or benefit with respect to a state miscellaneous member (1) who retires or dies on or after July 1, 2003, (2) who was a member of the state bargaining unit listed in subdivision (b), and (3) whose monthly salary range that was to be effective July 1, 2003, was reduced by 5 percent pursuant to a memorandum of understanding entered into during the 2003-04 fiscal year, means the highest annual compensation the member would have earned as of July 1, 2003, if that 5-percent reduction had not occurred. This section shall apply only if the period during which the member's salary was reduced would have otherwise been included in determining his or her final compensation. The increased costs, if any, that may result from the application of the definition of "final compensation" provided in this section shall be paid by the employer in the same manner as other retirement benefits are funded.

(b) This section shall apply with respect to members in State Bargaining Unit 9.

SEC. 162. Section 20235 of the Government Code is amended to read:

20235. (a) The board shall submit a review of this system's assets to the Legislature on a quarterly basis. The report shall also be made available to all contracting agencies. The report shall do both of the following:

(1) Discuss this system's portfolio and contain the following information:

(A) Concentration, current holdings at cost and market value, of equities.

(B) Concentration, current holdings at cost and market value, of fixed income instruments.

(C) Current holdings at cost and market value of real estate equities.

(D) Current holdings at cost and market value of mortgages.

(E) Options and forward commitments.

(F) Cash and cash equivalents.

(2) Disclose the following information on the rate of return of the fund by type of asset:

(A) Time-weighted return on a five-year, three-year, two-year, and one-year basis.

(B) Dollar-weighted return on a five-year, three-year, two-year, and one-year basis.

(C) Summary of performance of an alternative theoretical portfolio containing all investments and performance of comparable universes and other indexes.

(b) Upon written request from a contracting agency that does not participate in a risk pool, the board shall submit additional quarterly reports to the contracting agency as described in this subdivision. For the first quarter of the fiscal year, the report shall be submitted within 120 days after the end of the quarter and shall contain the agency's beginning balance for the fiscal year. For the second and third quarters of the fiscal year, the report shall be submitted to the contracting agency within 90 days after the end of the quarter. For the fourth quarter of the fiscal year, the report shall be submitted within 180 days after the end of the quarter and shall contain the agency's balance as of the end of the fiscal year. The report shall include, but need not be limited to, the following:

(1) All contributions made to the system by the contracting agency and its employees. The contributions shall be reported as the amounts paid and the amounts due from the contracting agency for both employer contributions and employee contributions.

(2) All benefits paid by the system to members of the contracting agency and their survivors and beneficiaries, including payments on account of pension, death, and disability benefits, and withdrawals of contributions. The benefits shall be reported as the total monthly allowances paid to retirees, survivors, and beneficiaries; the amount of total refunds paid; and the amount of any other lump sums paid.

(3) An amount that represents any miscellaneous adjustments, including transfers in and out.

(4) That quarter's portion of the agency's estimated share of the system's administrative costs that shall be assessed at the end of the fiscal year.

(5) The rate of return for the system during the quarter as reported to the board by the investment committee.

(6) The estimated interest applied to the agency's account as determined by the system. For purposes of this paragraph, the "estimated interest applied" means the estimate of the annual net earnings, as defined in Section 20052, and is subject to adjustment at the end of the fiscal year based on the actual dollar-weighted amount of investment return that shall be credited to the agency's account for the fiscal year. The report for the fourth quarter of the fiscal year shall also include the actual dollar-weighted amount of investment return for the fiscal year that shall be credited to the contracting agency's account.

(c) Upon written request from a contracting agency that participates in a risk pool, the board shall submit to the contracting agency quarterly

reports that reflect the total contributions made to the system by agencies in the risk pool, the total benefits paid by the system with respect to the risk pool, the total estimated share of administrative costs for the risk pool, and the total estimated share of investment returns for the risk pool.

(d) A contracting agency requesting quarterly reports pursuant to subdivision (b) or (c) shall pay a fee, in an amount determined by the board, not to exceed one thousand five hundred dollars (\$1,500) quarterly per agency while the manual process of collecting the information is in use.

(e) Any report received by a contracting agency pursuant to this section shall be made available by the agency to any employee organization that represents the agency's employees and that requests a copy of the report.

SEC. 163. Section 22013.97 of the Government Code is amended to read:

22013.97. "Policeman" or "fireman," as used in this part, also includes persons employed in positions set forth in Section 20398 for the purposes of Section 218(d)(5)(A) of the Social Security Act (42 U.S.C. Sec. 418(d)(5)(A)).

SEC. 164. Section 22825.12 of the Government Code is amended to read:

22825.12. (a) Notwithstanding Section 22825.1, subdivision (b) of Section 22825.15, or any other provision of this article, the employer's contribution with respect to employees in State Bargaining Unit 16 and State Bargaining Unit 19 shall be as described in paragraphs (1) and (2). To be eligible for this contribution, the employee must be enrolled in an approved health benefits plan.

(1) From January 1, 2004, to December 31, 2005, inclusive, the employer's contribution for each employee shall be an amount equal to 80 percent of the weighted average of the basic health benefits plan premium for an active state civil service employee enrolled for himself or herself alone, during the benefit year to which the formula is applied, for the four basic health benefits plans that had the largest active state civil service enrollment, excluding family members, during the previous benefit year. For each employee with enrolled family members, the employer shall contribute an additional 80 percent of the weighted average of the additional premiums required for enrollment of those family members, during the benefit year to which the formula is applied, in the four basic health benefits plans that had the largest active state civil service enrollment, excluding family members, during the previous benefit year.

(2) From and after January 1, 2006, the employer's contribution for each employee shall be an amount equal to 85 percent of the weighted average of the basic health benefits plan premium for an active state civil

service employee enrolled for himself or herself alone, during the benefit year to which the formula is applied, for the four basic health benefits plans that had the largest active state civil service enrollment, excluding family members, during the previous benefit year. For each employee with enrolled family members, the employer shall contribute an additional 80 percent of the weighted average of the additional premiums required for enrollment of those family members, during the benefit year to which the formula is applied, in the four basic health benefits plans that had the largest active state civil service enrollment, excluding family members, during the previous benefit year.

(b) The employer is not obligated to make a contribution under this section for any employee unless and until the effective date of the employee's enrollment in an approved health benefits plan.

(c) The contribution of each employee and annuitant under this section shall be the total cost per month of the benefit coverage afforded him or her under the plan or plans less the portion thereof to be contributed by the employer.

(d) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5 or 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, the provisions may not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 165. Section 25358 of the Government Code is amended to read:

25358. The board shall provide all necessary officers, employees, attendants, services, and supplies for the proper maintenance, care, and upkeep of the county buildings and grounds, and the board may contract therefor pursuant to Article 3.5 (commencing with Section 20120) of Part 3 of the Public Contract Code.

SEC. 166. Section 29550 of the Government Code is amended to read:

29550. (a) (1) Notwithstanding any other provision of law, a county may impose a fee upon a city, special district, school district, community college district, college, or university for reimbursement of county expenses incurred with respect to the booking or other processing of persons arrested by an employee of that city, special district, school district, community college district, college, or university, if the arrested persons are brought to the county jail for booking or detention. The fee imposed by a county pursuant to this section shall not exceed the actual administrative costs, including applicable overhead costs as permitted by federal Circular A-87 standards, as defined in subdivision (d),

incurred in booking or otherwise processing arrested persons. A county may submit an invoice to a city, special district, school district, community college district, college, or university for these expenses incurred by the county on and after July 1, 1990. Counties shall fully disclose the costs allocated as federal Circular A-87 overhead.

(2) Any increase in a fee charged pursuant to this section shall be adopted by a county prior to the beginning of its fiscal year and may be adopted only after the county has provided each city, special district, school district, community college district, college, or university 45 days' written notice of a public meeting held pursuant to Section 54952.2 on the fee increase and the county has conducted the public meeting.

(3) Any county that imposes a fee pursuant to this section shall negotiate a reduced fee with any city, special district, school district, community college district, college, or university within the county for any services that are performed by the arresting agency in the processing of arrestees that do not have to be duplicated by the county.

(4) This subdivision shall not apply to counties that are under a contractual agreement with a city, special district, school district, community college district, college, or university within the county that is subject to the fee.

(b) The exemption of a local agency from the payment of a fee pursuant to this subdivision does not exempt the person arrested from the payment of fees for booking or other processing.

(1) Notwithstanding subdivision (a), a city, special district, school district, community college district, college, or university shall not be charged fees for arrests on any bench warrant for failure to appear in court, nor on any arrest warrant issued in connection with a crime not committed within the entity's jurisdiction.

(2) Notwithstanding subdivision (a), a city, special district, school district, community college district, college, or university shall not be charged fees for a person who is ordered by a court to be remanded to the county jail except that a county may charge a fee to recover those direct costs for those functions required to book a person pursuant to subdivision (g) of Section 853.6 of the Penal Code.

(3) Notwithstanding subdivision (a), a city, special district, school district, community college district, college, or university shall not be charged fees for arrests made pursuant to arrest warrants originating outside of its jurisdiction.

(4) Notwithstanding subdivision (a), no fees shall be charged to a city, special district, school district, community college district, college, or university on parole violation arrests or probation-ordered returns to custody, unless a new charge has been filed for a crime committed in the jurisdiction of the arresting city, district, college, or university.

(5) An agency making a mutual aid request shall pay fees that result from arrests made in response to the mutual aid request except that in the event the Governor declares a state of emergency, no agency shall be charged fees for any arrest made during any riot, disturbance, or event that is subject to the declaration.

(6) Notwithstanding subdivision (a), no fees shall be charged to a city, special district, school district, community college district, college, or university for the arrest of a prisoner who has escaped from a county, state, or federal detention or corrections facility.

(7) Notwithstanding subdivision (a), no fees shall be charged to a city, special district, school district, community college district, college, or university for arrestees held in temporary detention at a court facility for purposes of arraignment when the arrestee has been previously booked at an entity detention facility.

(8) Notwithstanding subdivision (a), no fees shall be charged to a city, special district, school district, community college district, college, or university as the result of an arrest made by its officer assigned to a formal multiagency task force in which the county is a participant. For the purposes of this section, "formal task force" means a task force that has been established by written agreement of the participating agencies.

(9) In those counties in which the cities and the county participate in a consolidated booking program and, prior to arraignment, an arrestee is transferred from a city detention facility to a county detention facility, the city shall not be charged for those tasks listed in subdivision (d) that are a part of the consolidated booking program that were completed by the city prior to delivering the arrestee to the county detention facility. However, the county may charge the actual administrative costs for those additional tasks listed in subdivision (d) that are performed in order to receive the arrestee into the county detention facility.

(c) Any county whose officer or agent arrests a person is entitled to recover from the arrested person a criminal justice administration fee for administrative costs it incurs in conjunction with the arrest if the person is convicted of any criminal offense related to the arrest, whether or not it is the offense for which the person was originally booked. The fee which the county is entitled to recover pursuant to this subdivision shall not exceed the actual administrative costs, including applicable overhead costs incurred in booking or otherwise processing arrested persons.

(d) When the court has been notified in a manner specified by the court that a criminal justice administration fee is due the agency:

(1) A judgment of conviction may impose an order for payment of the amount of the criminal justice administration fee by the convicted person, and execution may be issued on the order in the same manner as a judgment in a civil action, but shall not be enforceable by contempt.

(2) The court shall, as a condition of probation, order the convicted person, based on his or her ability to pay, to reimburse the county for the criminal justice administration fee, including applicable overhead costs.

(e) As used in this section, "actual administrative costs" includes only those costs for functions that are performed in order to receive an arrestee into a county detention facility. Operating expenses of the county jail facility, including capital costs and those costs involved in the housing, feeding, and care of inmates, shall not be included in calculating "actual administrative costs." "Actual administrative costs" may include the cost of notifying any local agency, special district, school district, community college district, college, or university of any change in the fee charged by a county pursuant to this section. "Actual administrative costs" may include any one or more of the following as related to receiving an arrestee into the county detention facility:

(1) The searching, wristbanding, bathing, clothing, fingerprinting, photographing, and medical and mental screening of an arrestee.

(2) Document preparation, retrieval, updating, filing, and court scheduling related to receiving an arrestee into the detention facility.

(3) Warrant service, processing, and detainer.

(4) Inventory of an arrestee's money and creation of cash accounts.

(5) Inventory and storage of an arrestee's property.

(6) Inventory, laundry, and storage of an arrestee's clothing.

(7) The classification of an arrestee.

(8) The direct costs of automated services utilized in paragraphs (1) to (7), inclusive.

(9) Unit management and supervision of the detention function as related to paragraphs (1) to (8), inclusive.

(f) An administrative screening fee of twenty-five dollars (\$25) shall be collected from each person arrested and released on his or her own recognizance upon conviction of any criminal offense related to the arrest other than an infraction. A citation processing fee in the amount of ten dollars (\$10) shall be collected from each person cited and released by any peace officer in the field or at a jail facility upon conviction of any criminal offense, other than an infraction, related to the criminal offense cited in the notice to appear. However, the court may determine a lesser fee than otherwise provided in this subdivision upon a showing that the defendant is unable to pay the full amount. All fees collected pursuant to this subdivision shall be transmitted by the county auditor monthly to the Controller for deposit in the General Fund. This subdivision applies only to convictions occurring on or after the effective date of the act adding this subdivision and prior to June 30, 1996.

SEC. 167. 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 moneys 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 to the county sheriff for county jail construction and operation. In the case of Madera, Napa, and Santa Clara Counties, this allocation shall be made to the county director or chief of corrections.

(2) Five and fifteen one hundredths percent to the district attorney for criminal prosecution.

(3) Thirty-nine and seven tenths percent to the county and the cities within the county, and, in the case of 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 that was incorporated prior to July 1 of the fiscal year in which an allocation from the SLESF is to be made, the city manager, or an appointee of the legislative body, if a city manager is not available, and the county administrative or executive officer shall prepare a joint notification to the Department of Finance and the county auditor with a population estimate reduction of the unincorporated area of the county equal to the population of the newly incorporated city by July 15, or

within 15 days after the Budget Act is enacted, of the fiscal year in which an allocation from the SLESF is to be made. No person residing within the Broadmoor Police Protection District, the Bear Valley Community Services District, the Stallion Springs Community Services District, the Lake Shastina Community Services District, or the Kensington Police Protection and Community Services District shall also be counted as residing within the unincorporated area of the County of San Mateo, Kern, Siskiyou, or Contra Costa, or within any city located within those counties. The county auditor shall allocate a grant of at least one hundred thousand dollars (\$100,000) to each law enforcement jurisdiction. Moneys allocated to the county pursuant to this subdivision shall be retained in the county SLESF, and moneys allocated to a city pursuant to this subdivision shall be deposited in a SLESF established in the city treasury.

(4) Fifty percent to the county or city and county to implement a comprehensive multiagency juvenile justice plan as provided in this paragraph and to the Board of Corrections for administrative purposes. Funding for the Board of Corrections, as determined by the Department of Finance, shall not exceed two hundred seventy-five thousand dollars (\$275,000). For the 2003–04 fiscal year, of the two hundred seventy-five thousand dollars (\$275,000), up to one hundred seventy-six thousand dollars (\$176,000) may be used for juvenile facility inspections. The juvenile justice 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 at a time determined by the board in each year that the Legislature appropriates funds for purposes of this chapter, or within 30 days after a request by a recipient agency for a hearing if the funds have been received by the county from the state prior to that request, 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) If 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. 168. Section 31520.5 of the Government Code is amended to read:

31520.5. (a) Notwithstanding Section 31520.1, in any county subject to Articles 6.8 (commencing with Section 31639) and 7.5 (commencing with Section 31662.2), the board of retirement may, by majority vote, appoint, from a list of nominees submitted by a qualified retiree organization, an alternate retired member to the office of the

eighth member, who shall serve until the expiration of the current term of the current eighth member. Thereafter, the alternate retired member shall be elected separately by the retired members of the association in the same manner and at the same time as the eighth member is elected. An organization shall be deemed to be a "qualified retiree organization" for purposes of this subdivision if a majority of the members of the organization are retired members of the system.

(b) The term of office of the alternate retired member shall run concurrently with the term of office of the eighth member. The alternate retired member shall vote as a member of the board only in the event the eighth member is absent from a board meeting for any cause. If there is a vacancy with respect to the eighth member, the alternate retired member shall fill that vacancy until a successor qualifies. The alternate retired member shall be entitled to the same compensation as the eighth member only if the alternate retired member is present and acting for the eighth member during the entire meeting.

(c) If this section is made applicable in any county, by the appointment of an alternate eighth member, the alternate safety member may not sit and act for the eighth member.

SEC. 169. Section 31755 of the Government Code is amended to read:

31755. (a) (1) The Board of Supervisors of Contra Costa County may make this section, Tier Three, applicable to officers and employees for whom it is the governing body, by adopting an ordinance specifying the future operative date of its application.

(2) As used in this section, "Tier One" refers to the retirement plan covering general members not covered by Section 31751.

(3) After the board of supervisors has adopted an ordinance, the governing body of a district not governed by the board of supervisors may make this section applicable as Tier Three to its officers and employees on and after the future operative date it specifies.

(b) Except as otherwise provided in this section, this section shall cover all officers and employees who are members or return to membership in the county's Tier Two retirement system established by Section 31751 on or after the operative date specified in the ordinance adopted pursuant to subdivision (a), and in a district on or after the date of its applicability thereto.

(c) (1) This section shall not cover any employee who is in, or eligible for, Tier One or safety membership under this chapter.

(2) This section shall not cover any person who is a member of the retirement system in the county or district on or after the operative date of its application thereto unless and until the person voluntarily in writing irrevocably elects coverage.

(3) This section shall not be applicable to any eligible member who does not elect coverage, is then laid off or terminates employment, regardless of whether voluntarily or involuntarily, and later returns to membership employment.

(4) This section shall not be applicable to any eligible member who does not elect coverage, then retires or becomes a deferred member, and later returns to active membership.

(5) This section shall not be applicable to any person referred to in subparagraph (D) of paragraph (2) of subdivision (d) who does not elect coverage.

(d) Upon adoption of this section by the board of supervisors, the following provisions shall become applicable:

(1) Subject to the provisions of paragraph (2) of subdivision (d), any qualified individual county or district employee may irrevocably elect coverage under Tier Three.

(2) (A) County or district employees who are members of the county's Tier Two retirement system and who have attained five years' retirement credited service to the county or district on the applicable date of this section, must elect Tier Three coverage in writing within six months after that date.

(B) Persons not subject to subparagraph (A), who thereafter attain five years' credited service in the county's Tier Two retirement system, must elect Tier Three coverage in writing within 90 days after attaining the five years' retirement credited service.

(C) Persons not subject to subparagraph (A) or (B), who, before the Tier Three applicability date, elected deferred retirement under Article 9 (commencing with Section 31700) from the county's Tier Two retirement system, and who had at least five years' credited Tier Two retirement service, and who thereafter while still in deferred status return to active membership, must elect coverage in writing within 90 days after that return.

(D) Persons not under subparagraph (A), (B), or (C), who enter or reenter employment in the county or the district for the first time after Tier Three is applicable thereto, and who have reciprocal rights under Article 15 (commencing with Section 31830), and who are otherwise eligible to elect Tier Three by virtue of their Tier Two status and years of retirement credited service must elect Tier Three coverage in writing within 90 days after that entry or reentry.

(e) The board may not grant a disability retirement allowance to a person who has become a Tier Three member except as provided in Section 31720.1. The amount of disability retirement allowances under Tier Three shall be as set forth in Section 31727.01.

(f) Notwithstanding any other provision of this chapter, service retirements under Tier Three shall be governed by the same provisions that govern Tier One retirements in Contra Costa County.

(g) Notwithstanding any other provision of this chapter, Tier Three retired members who have retired for service shall only be entitled to cost-of-living adjustments as provided by the board of supervisors for Tier One retired members pursuant to Article 16.5 (commencing with Section 31830).

(h) Notwithstanding any other provision of this chapter, Tier Three retired members who have been retired for disability shall only be entitled to cost-of-living adjustments as provided by the board of supervisors for Tier Two retired members pursuant to Article 16.5 (commencing with Section 31830).

(i) The board of supervisors may adopt regulations to implement the provisions of this section.

SEC. 170. Section 31762 of the Government Code is amended to read:

31762. Optional settlement 2 consists of the right to elect in writing to have a retirement allowance paid to him or her until his or her death, and thereafter to the person, having an insurable interest in his or her life, as he or she nominates by written designation duly executed and filed with the board at the time of his or her retirement.

SEC. 171. Section 31776.3 of the Government Code is amended to read:

31776.3. (a) Unless the implementing ordinance otherwise provides, the balance in the participant's program account shall be distributed to the participant in a single lump-sum payment at the time of retirement. If requested by the participant, the payment may be immediately deposited into a qualified tax-deferred account established by the participant.

(b) The implementing ordinance may provide one or more of the following optional forms of distribution for a participant's account:

(1) Substantially level installment payments over 240 months starting with the date that the member leaves DROP. The balance in the participant's account during the installment payout period shall be credited with interest at the same rate, if any, as is being credited to program accounts for currently active members. A cost-of-living adjustment may not be made to the monthly amount being paid pursuant to this paragraph.

(2) An annuity in a form established by the board and subject to the applicable provisions of the Internal Revenue Code that shall be the actuarial equivalent of the balance in the participant's program account on the retirement date. The "actuarial equivalent" under this paragraph

shall be determined on the same basis as is used for determining optional settlements at retirement for a member's monthly retirement allowance.

(c) Notwithstanding any other provision of this article, a participant, nonparticipant spouse, or beneficiary may not be permitted to elect a distribution under this article that does not satisfy the requirements of Section 401(a)(9) of Title 26 of the United States Code, including the incidental death benefit requirements of Section 401(a)(9)(G) and the regulations thereunder.

(d) The required beginning date of distributions that reflect the entire interest of the participant shall be as follows:

(1) In the case of a lump-sum distribution to the participant, the lump-sum payment shall be made, at the participant's option, not later than April 1 of the calendar year following the later of the calendar year in which the participant attains the age of 70¹/₂ years (or age determined by the Internal Revenue Service) or the calendar year in which the participant terminates all employment for the employer.

(2) In the case of a distribution to the participant in the form of installment payments or an annuity, payment shall begin, at the participant's option, not later than April 1 of the calendar year following the later of the calendar year in which the participant attains age 70 and one-half years (or age determined by the Internal Revenue Service) or the calendar year in which the participant terminates all employment subject to coverage by the plan.

(3) In the case of a benefit payable on account of the participant's death, distribution shall be paid at the option of the beneficiary, no later than December 31 of the calendar year in which the first anniversary of the participant's date of death occurs unless the beneficiary is the participant's spouse in which case distributions shall commence on or before the later of either of the following:

(A) December 31 of the calendar year immediately following the calendar year in which the participant dies.

(B) December 31 of the calendar year in which the participant would have attained the age of 70 and one-half years (or age determined by the Internal Revenue Service).

SEC. 172. Section 50061 of the Government Code is amended to read:

50061. (a) The ordinance or resolution shall establish uniform assessment rates based on the costs of providing the maintenance or improvement by the district. The assessment shall be related to the benefits to the property assessed. The maximum amount that may be assessed for habitat maintenance on any lot or parcel for purposes of paying costs incurred in 1994 for long-term maintenance of natural habitat pursuant to this article shall not exceed twenty-five dollars (\$25). For subsequent years, the maximum amount that may be assessed for

this purpose shall not exceed twenty-five dollars (\$25) increased by the percentage increase in the California Consumer Price Index between December 1993 and December of the year prior to the year of the assessment. The total amount assessed shall not exceed the anticipated actual costs of the authorized maintenance of natural habitat.

(b) Notwithstanding subdivision (a), land that is devoted primarily to agricultural, timber, or livestock uses and that is being used for the commercial production of agricultural, timber, or livestock products may be subject to an assessment by a district for the acquisition, construction, or operation and maintenance of natural habitat pursuant to this article only if the legislative body makes both of the following determinations:

(1) The agricultural, timber, or livestock land will be specially benefited by the natural habitat. The determination shall identify the nature of the benefit to the land.

(2) Agricultural, timber, or livestock uses or practices will be eliminated in a manner that will adversely affect the habitat area or the flora or fauna that the natural habitat is intended to protect, or the owner of the land has agreed to the assessment. No land is subject to an assessment until its agricultural, timber, or livestock use is eliminated or until the owner consents to the assessment, whichever occurs first.

(c) Division 4.5 (commencing with Section 3100) of the Streets and Highways Code applies to proceedings in which the legislative body determines to issue bonds or notes pursuant to Section 50068, or to finance a long-term natural habitat maintenance program in a district, and may be applied to any other proceedings pursuant to this article at the discretion of the legislative body.

SEC. 173. Section 53088.2 of the Government Code is amended to read:

53088.2. (a) Every video provider shall render reasonably efficient service, make repairs promptly, and interrupt service only as necessary.

(b) All video provider personnel contacting subscribers or potential subscribers outside the office of the provider shall be clearly identified as associated with the video provider.

(c) At the time of installation, and annually thereafter, all video providers shall provide to all customers a written notice of the programming offered, the prices for that programming, the provider's installation and customer service policies, and the name, address, and telephone number of the local franchising authority.

(d) All video providers shall have knowledgeable, qualified company representatives available to respond to customer telephone inquiries Monday to Friday, inclusive, excluding holidays, during normal business hours.

(e) All video providers shall provide to customers a toll-free or local telephone number for installation, and service, and complaint calls. These calls shall be answered promptly by the video providers. The city, county, or city and county may establish standards for what constitutes promptness.

(f) All video providers shall render bills that are accurate and understandable.

(g) All video providers shall respond to a complete outage in a customer's service promptly. The response shall occur within 24 hours of the reporting of the outage to the provider, except in those situations beyond the reasonable control of the video provider. A video provider shall be deemed to respond to a complete outage when a company representative arrives at the outage location within 24 hours and begins to resolve the problem.

(h) All video providers shall provide a minimum of 30 days' written notice before increasing rates or deleting channels. All video providers shall make every reasonable effort to submit the notice to the city, county, or city and county in advance of the distribution to customers. The 30-day notice is waived if the increases in rates or deletion of channels were outside the control of the video provider. In those cases the video provider shall make reasonable efforts to provide customers with as much notice as possible.

(i) Every video provider shall allow every residential customer who pays his or her bill directly to the video provider at least 15 days from the date the bill for services is mailed to the customer, to pay the listed charges unless otherwise agreed to pursuant to a residential rental agreement establishing tenancy. Customer payments shall be posted promptly. No video provider may terminate residential service for nonpayment of a delinquent account unless the video provider furnishes notice of the delinquency and impending termination at least 15 days prior to the proposed termination. The notice shall be mailed, postage prepaid, to the customer to whom the service is billed. Notice shall not be mailed until the 16th day after the date the bill for services was mailed to the customer. The notice of delinquency and impending termination may be part of a billing statement. No video provider may assess a late fee any earlier than the 22nd day after the bill for service has been mailed.

(j) Every notice of termination of service pursuant to subdivision (i) shall include all of the following information:

(1) The name and address of the customer whose account is delinquent.

(2) The amount of the delinquency.

(3) The date by which payment is required in order to avoid termination of service.

(4) The telephone number of a representative of the video provider who can provide additional information and handle complaints or initiate an investigation concerning the service and charges in question.

Service may only be terminated on days in which the customer can reach a representative of the video provider either in person or by telephone.

(k) Any service terminated without good cause shall be restored without charge for the service restoration. Good cause includes, but is not limited to, failure to pay, payment by check for which there are insufficient funds, theft of service, abuse of equipment or system personnel, or other similar subscriber actions.

(l) All video providers shall issue requested refund checks promptly, but no later than 45 days following the resolution of any dispute, and following the return of the equipment supplied by the video provider, if service is terminated.

(m) All video providers shall issue security or customer deposit refund checks promptly, but no later than 45 days following the termination of service, less any deductions permitted by law.

(n) Video providers shall not disclose the name and address of a subscriber for commercial gain to be used in mailing lists or for other commercial purposes not reasonably related to the conduct of the businesses of the video providers or their affiliates, unless the video providers have provided to the subscriber a notice, separate or included in any other customer notice, that clearly and conspicuously describes the subscriber's ability to prohibit the disclosure. Video providers shall provide an address and telephone number for a local subscriber to use without toll charge to prevent disclosure of the subscriber's name and address.

(o) Disputes concerning the provisions of this article shall be resolved by the city, county, or city and county in which the customer resides. For video providers under Section 53066, the franchising authority shall resolve disputes. All other video providers shall register with the city in which they provide service or, where the customers reside in an unincorporated area, in the county in which they provide service. The registration shall include the name of the company, its address, its officers, telephone numbers, and customer service and complaint procedures. Counties and cities may charge these other video providers operating in the state a fee to cover the reasonable cost of administering this division.

(p) Nothing in this division limits any power of a city, county, or city and county or video provider to adopt and enforce service standards and consumer protection standards that exceed those established in this division.

(q) The legislative body of the city, county, or city and county, may, by ordinance, provide a schedule of penalties for the material breach by a video provider of subdivisions (a) to (p), inclusive. No monetary penalties shall be assessed for a material breach if the breach is out of the reasonable control of the video provider. Further, no monetary penalties may be imposed prior to the effective date of this section. Any schedule of monetary penalties adopted pursuant to this section shall in no event exceed two hundred dollars (\$200) for each day of each material breach, not to exceed six hundred dollars (\$600) for each occurrence of material breach. However, if a material breach of any of subdivisions (a) to (p), inclusive, has occurred and the city, county, or city and county has provided notice and a fine or penalty has been assessed, in a subsequent material breach of the same nature occurring within 12 months, the penalties may be increased by the city, county, or city and county to a maximum of four hundred dollars (\$400) for each day of each material breach, not to exceed one thousand two hundred dollars (\$1,200) for each occurrence of the material breach. If a third or further material breach of the same nature occurs within those same 12 months, and the city, county, or city and county has provided notice and a fine or penalty has been assessed, the penalties may be increased to a maximum of one thousand dollars (\$1,000) for each day of each material breach, not to exceed three thousand dollars (\$3,000) for each occurrence of the material breach. With respect to video providers subject to a franchise or license, any monetary penalties assessed under this section shall be reduced dollar for dollar to the extent any liquidated damage or penalty provision of a current cable television ordinance, franchise contract, or license agreement imposes a monetary obligation upon a video provider for the same customer service failures, and no other monetary damages may be assessed. However, this section shall in no way affect the right of franchising authorities concerning assessment or renewal of a cable television franchise under the provisions of the Cable Communications Policy Act of 1984 (47 U.S.C. Sec. 521 et seq.).

(r) If the legislative body of a city, county, or city and county adopts a schedule of monetary penalties pursuant to subdivision (q), the following procedures shall be followed:

(1) The city, county, or city and county shall give the video provider written notice of any alleged material breaches of the consumer service standards of this division and allow the video provider at least 30 days from receipt of the notice to remedy the specified breach.

(2) A material breach for the purposes of assessing penalties shall be deemed to have occurred for each day, following the expiration of the period specified in paragraph (1), that any material breach has not been remedied by the video provider, irrespective of the number of customers affected.

(s) Notwithstanding subdivision (o), or any other provision of law, this section shall not preclude a party affected by this section from utilizing any judicial remedy available to that party without regard to this section. Actions taken by a local legislative body, including a franchising authority, pursuant to this section shall not be binding upon a court of law. For this purpose a court of law may conduct de novo review of any issues presented.

SEC. 174. Section 53895.5 of the Government Code is amended to read:

53895.5. (a) An officer of a community redevelopment agency who fails or refuses to make and file his or her report within 20 days after receipt of a written notice of the failure from the Controller shall forfeit to the state:

(1) One thousand dollars (\$1,000) in the case of a community redevelopment agency with total revenue, in the prior year, of less than one hundred thousand dollars (\$100,000), as reported in the Controller's annual financial reports.

(2) Two thousand five hundred dollars (\$2,500) in the case of a community redevelopment agency with total revenue, in the prior year, of at least one hundred thousand dollars (\$100,000), but less than two hundred fifty thousand dollars (\$250,000), as reported in the Controller's annual financial reports.

(3) Five thousand dollars (\$5,000) in the case of a community redevelopment agency with total revenue, in the prior year, of at least two hundred fifty thousand dollars (\$250,000), as reported in the Controller's annual financial reports.

(b) An officer of a community redevelopment agency who fails or refuses to make and file his or her report within 20 days after receipt of a written notice of the failure from the Controller in the second or more consecutive year shall forfeit to the state:

(1) Two thousand dollars (\$2,000) in the case of a community redevelopment agency with total revenue, in the prior year, of less than one hundred thousand dollars (\$100,000), as reported in the Controller's annual financial reports.

(2) Five thousand dollars (\$5,000) in the case of a community redevelopment agency with total revenue, in the prior year, of at least one hundred thousand dollars (\$100,000), but less than two hundred fifty thousand dollars (\$250,000), as reported in the Controller's annual financial reports.

(3) Ten thousand dollars (\$10,000) in the case of a community redevelopment agency with total revenue, in the prior year, of at least two hundred fifty thousand dollars (\$250,000), as reported in the Controller's annual financial reports.

(c) In the case of a community redevelopment agency that fails or refuses to make and file its report within 20 days after receipt of a written notice of the failure from the Controller in the third or more consecutive year, the Controller shall conduct or cause to be conducted an independent financial audit report consistent with the requirements of Section 33080.1 of the Health and Safety Code. The community redevelopment agency shall reimburse the Controller for the cost of complying with this subdivision. The community redevelopment agency shall not use any of the funds in the Low and Moderate Income Housing Fund to reimburse the Controller.

(d) (1) Upon the request of the Controller, the Attorney General shall prosecute an action for the forfeiture in the name of the people of the State of California.

(2) Upon a satisfactory showing of good cause, the Controller may waive the penalties for late filing provided in this section.

(e) A community redevelopment agency that makes a forfeiture or payment pursuant to this section shall still file the report required pursuant to Section 53891.

SEC. 175. Section 54222 of the Government Code is amended to read:

54222. Any agency of the state and any local agency disposing of surplus land shall, prior to disposing of that property, send a written offer to sell or lease the property as follows:

(a) A written offer to sell or lease for the purpose of developing low- and moderate-income housing shall be sent to any local public entity as defined in Section 50079 of the Health and Safety Code, within whose jurisdiction the surplus land is located. Housing sponsors, as defined by Section 50074 of the Health and Safety Code, shall, upon written request, be sent a written offer to sell or lease surplus land for the purpose of developing low- and moderate-income housing. All notices shall be sent by first-class mail and shall include the location and a description of the property. With respect to any offer to purchase or lease pursuant to this subdivision, priority shall be given to development of the land to provide affordable housing for lower income elderly or disabled persons or households, and other lower income households.

(b) A written offer to sell or lease for park and recreational purposes or open-space purposes shall be sent:

(1) To any park or recreation department of any city within which the land may be situated.

(2) To any park or recreation department of the county within which the land is situated.

(3) To any regional park authority having jurisdiction within the area in which the land is situated.

(4) To the State Resources Agency or any agency which may succeed to its powers.

(c) A written offer to sell or lease land suitable for school facilities construction or use by a school district for open-space purposes shall be sent to any school district in whose jurisdiction the land is located.

(d) A written offer to sell or lease for enterprise zone purposes any surplus property in an area designated as an enterprise zone pursuant to Section 7073 shall be sent to the nonprofit neighborhood enterprise association corporation in that zone.

(e) A written offer to sell or lease for the purpose of developing property located within an infill opportunity zone designated pursuant to Section 65088.4, or within an area covered by a transit village plan adopted pursuant to the Transit Village Development Planning Act of 1994 (Article 8.5 (commencing with Section 65460) of Chapter 3 of Division 1 of Title 7), shall be sent to any county, city, city and county, community redevelopment agency, public transportation agency, or housing authority within whose jurisdiction the surplus land is located.

(f) A written offer to sell or lease any surplus property in a designated program area, as defined in subdivision (i) of Section 7082, shall be sent to the program area agent.

(g) The entity or association desiring to purchase or lease the surplus land for any of the purposes authorized by this section shall notify in writing the disposing agency of its intent to purchase or lease the land within 60 days after receipt of the agency's notification of intent to sell or lease the land.

SEC. 176. Section 63049.4 of the Government Code is amended to read:

63049.4. (a) On and after the effective date of each sale of tobacco assets, the state shall have no right, title, or interest in or to the tobacco assets sold, and the tobacco assets so sold shall be property of the special purpose trust and not of the state, the bank board, the State Public Works Board, or the bank, and shall be owned, received, held, and disbursed by the special purpose trust or the trustee for the financing. None of the tobacco assets sold by the state pursuant to this article shall be subject to garnishment, levy, execution, attachment, or other process, writ, including, but not limited to, a writ of mandate, or remedy in connection with the assertion or enforcement of any debt, claim, settlement, or judgment against the state, the bank board, the State Public Works Board, or the bank.

On or before the effective date of any sale, the state, acting through its Attorney General, upon direction of the bank, shall notify the California escrow agent under the Master Settlement Agreement and the California escrow agreement that the sold tobacco assets have been sold to the special purpose trust and irrevocably instruct the California escrow

agent that, as of the applicable effective date, the tobacco assets sold are to be paid directly to the trustee for the applicable bonds of the special purpose trust. The state pledges to and agrees with the holders of any bonds issued by the special purpose trust that it will not amend the Master Settlement Agreement, the memorandum of understanding, or the California escrow agreement, or take any other action, in any way that would alter, limit, or impair the rights to receive tobacco assets sold to the special purpose trust pursuant to this article, nor in any way impair the rights and remedies of bondholders or the security for their bonds until those bonds, together with the interest thereon and costs and expenses in connection with any action or proceeding on behalf of the bondholders, are fully paid and discharged. The state further pledges and agrees that it shall enforce its rights to collect all moneys due from the participating tobacco products manufacturers under the Master Settlement Agreement and, in addition, shall diligently enforce the model statute as contemplated in the Master Settlement Agreement (Article 3 (commencing with Section 104555) of Chapter 1 of Part 3 of Division 103 of the Health and Safety Code) against all tobacco product manufacturers selling tobacco products in the state and that are not signatories to the Master Settlement Agreement, in each case in the manner and to the extent necessary in the judgment of the Attorney General to collect all moneys to which the state is entitled under the Master Settlement Agreement. The special purpose trust may include these pledges and undertakings in its bonds. Notwithstanding these pledges and undertaking by the state, the Attorney General may in his or her discretion enforce any and all provisions of the Master Settlement Agreement, without limitation.

(b) Bonds issued pursuant to this article shall not be deemed to constitute a debt of the state or a pledge of the faith or credit of the state, and all bonds shall contain on the face thereof a statement to the effect that neither the faith and credit nor the taxing power nor any other assets or revenues of the state or of any political subdivision thereof, other than the special purpose trust, is or shall be pledged to the payment of the principal of or the interest on the bonds.

(c) Whether or not the bonds are of a form and character as to be negotiable instruments under the terms of the Uniform Commercial Code, the bonds are hereby made negotiable instruments for all purposes, subject only to the provisions of the bonds for registration.

(d) The special purpose trust and the bank shall be treated as public agencies for purposes of Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure, and any action or proceeding challenging the validity of any matter authorized by this article shall be brought in accordance with, and within the time specified in, that chapter.

(e) Notwithstanding any other provision of law, the exclusive means to obtain review of a superior court judgment entered in an action brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure to determine the validity of any bonds to be issued, or any other contracts to be entered into, or any other matters authorized by this article, shall be by petition to the Supreme Court for writ of review. Any petition shall be filed within 15 days following the notice of entry of the superior court judgment, and no extension of that period may be allowed. If no petition is filed within the time allowed therefor, or the petition is denied, with or without opinion, the decision of the superior court shall be final and enforceable as provided in subdivision (a) of Section 870 of the Code of Civil Procedure. In any case in which a petition has been filed within the time allowed therefor, the Supreme Court shall make any orders, as it may deem proper in the circumstances. If no answering party appeared in the superior court action, the only issues that may be raised in the petition are those related to the jurisdiction of the superior court.

SEC. 177. Section 65919 of the Government Code is amended to read:

65919. As used in this chapter, the following terms have the following meanings:

(a) "Affected city" means a city within whose planning review area an affected territory is located.

(b) "Affected territory" means an area of land located in the unincorporated portion of a county that is the subject of one or more proposed actions.

(c) "Proposed action" means a proposal to adopt or amend all or part of a general or specific plan or to adopt or amend a zoning ordinance, but does not include action taken by an ordinance that became effective immediately pursuant to subdivision (b) or (d) of Section 25123 or pursuant to Section 65858.

(d) "Planning review area" means the territory included in a general plan or in any specific plan of a city or county. A planning review area in the case of a city shall not extend beyond whichever of the following includes the largest area and, in the case of a county, shall not extend beyond the territory described in paragraph (2) or (3), whichever includes the largest area:

(1) The area included within the sphere of influence of the city.

(2) A radius of one mile outside the boundary of the city which area shall not include any territory within the sphere of influence of another city.

(3) An area that is agreed upon and designated by a county and a city within the county.

SEC. 178. Section 68085.5 of the Government Code is amended to read:

68085.5. (a) Notwithstanding any other provision of law, the fees and fines collected pursuant to Sections 116.390, 116.570, 116.760, 116.860, 491.150, 704.750, 708.160, 724.100, 1134, and 1161.2 of the Code of Civil Procedure, Sections 26824, 26828, 26829, 26834, and 72059 of the Government Code, and Section 1835 of the Probate Code, that are not part of a local revenue sharing agreement or practice shall be deposited in a special account in the county treasury and transmitted therefrom monthly to the Controller for deposit in the Trial Court Trust Fund.

(b) Notwithstanding any other provision of law, the fees and fines collected pursuant to Sections 26827.6, 26827.7, 26840.1, 26847, 26854, 26855.1, 26855.2, 26859, 27293, 71386, and 72061 of the Government Code, Section 103470 of the Health and Safety Code, Sections 1203.4 and 1203.45 of the Penal Code, Sections 2343, 7660, and 13201 of the Probate Code, and Section 14607.6 of the Vehicle Code, that are not subject to a local revenue sharing agreement or practice, shall be deposited in a special account in the county treasury.

(c) However, if a superior court incurs the cost or provides the services specified in subdivision (b), the fees and fines collected shall be transmitted from the special account in the county treasury monthly to the Controller for deposit in the Trial Court Trust Fund.

(d) (1) Until July 1, 2005, each superior court and each county shall maintain the distribution of revenue from the fees specified in subdivisions (a) and (b) that is in effect pursuant to an agreement or practice that is in place at the time this section takes effect.

(2) In order to ensure that expenditures from revenue sharing agreements are consistent with Judicial Council fiscal and budgetary policy, the Administrative Director of the Courts shall review and approve all distribution of revenue agreements that are negotiated after the effective date of this section. If approval of an agreement negotiated after the effective date of this section is not granted, the director shall advise the court and county of the reasons for not granting approval and suggest modifications that will make the agreement consistent with the Judicial Council fiscal and budgetary policies.

(e) The Administrative Office of the Courts and the California State Association of Counties shall jointly determine and administer on or after January 1, 2004, and on or after January 1, 2005, all of the following:

(1) The amount of revenue that was deposited in the Trial Court Trust Fund pursuant to subdivisions (a) and (b) during the calendar year that just ended.

(2) The difference between the amount specified in subdivision (c) and thirty-one million dollars (\$31,000,000).

(3) A county-by-county transfer of the amount specified in paragraph (2) to the Trial Court Trust Fund in two equal installments, on February 15 and May 15, in each fiscal year.

(4) Any payment to correct for an overpayment or underpayment made for the 2003–04 fiscal year, shall be paid to the appropriate party on or before September 15, 2004.

(5) The sum of the amounts specified in paragraphs (1) and (2) may not exceed thirty-one million dollars (\$31,000,000), and shall be deposited in the Trial Court Trust Fund.

(f) Each superior court and each county shall provide detailed quarterly reports of the revenues generated by the fees and fines specified in subdivisions (a) and (b), Sections 177.5 and 1218 of the Code of Civil Procedure, and Sections 166 and 1214.1 of the Penal Code. The reports shall include the total amount collected and retained by the court or county and the existing distribution of those fees.

(g) On or before January 1, 2005, the Administrative Office of the Courts and the California State Association of Counties shall jointly propose to the Legislature a long-term revenue allocation schedule, to take effect on July 1, 2005, for the fees and fines specified in subdivisions (a) and (b), Sections 177.5 and 1218 of the Code of Civil Procedure, and Sections 166 and 1214.1 of the Penal Code. The revenue allocation schedule shall include provision for any underpayment or overpayment made pursuant to this section.

(h) No other transfers of the fees and fines specified in subdivisions (a) and (b), Sections 177.5 and 1218 of the Code of Civil Procedure, and Sections 166 and 1214.1 of the Penal Code shall take effect prior to July 1, 2005.

(i) Nothing in this section shall be deemed to alter or make void the shift of responsibility for court funding from the counties to the state.

SEC. 179. Section 68086 of the Government Code is amended to read:

68086. (a) The following provisions apply in superior court:

(1) In addition to any other fee required in civil actions or cases, for each proceeding lasting more than one hour, a fee equal to the actual cost of providing that service shall be charged per one-half day of services to the parties, on a pro rata basis, for the services of an official court reporter on the first and each succeeding judicial day those services are provided pursuant to Section 269 of the Code of Civil Procedure.

(2) All parties shall deposit their pro rata shares of these fees with the clerk of the court as specified by the court, but not later than the conclusion of each day's court session.

(3) For purposes of this section, “one-half day” means any period of judicial time, in excess of one hour but not more than four hours, during either the morning or afternoon court session.

(4) In addition to the fees authorized by Sections 26820.4, 26826, 72055, and 72056, a one-time fee of twenty-five dollars (\$25) for the cost of the services of an official court reporter shall be charged upon the filing of a first paper in a civil action or proceeding in the superior court, unless the amount demanded, excluding attorney’s fees and costs, is ten thousand dollars (\$10,000) or less. No additional fee shall be charged to a party for the cost of the services of an official court reporter in proceedings lasting one hour or less.

(5) The costs for the services of the official court reporter shall be recoverable as taxable costs by the prevailing party as otherwise provided by law.

(6) The Judicial Council shall adopt rules to ensure all of the following:

(A) That parties are given adequate and timely notice of the availability of an official court reporter.

(B) That if an official court reporter is not available, a party may arrange for the presence of a certified shorthand reporter to serve as an official pro tempore reporter, the costs therefore recoverable as provided in paragraph (5).

(C) That if the services of an official pro tempore reporter are utilized pursuant to subparagraph (B), no other charge will be made to the parties.

(b) The fees collected pursuant to this section shall be used only to pay the cost for services of an official court reporter in civil proceedings.

(c) The Judicial Council shall report on or before February 1 of each year to the Joint Legislative Budget Committee on the total fees collected and the total amount spent for official court reporter services in civil proceedings in the prior fiscal year.

SEC. 180. Section 69927 of the Government Code is amended to read:

69927. (a) It is the intent of the Legislature in enacting this section to develop a definition of the court security component of court operations that modifies Function 8 of Rule 810 of the California Rules of Court in a manner that will standardize billing and accounting practices and court security plans, and identify allowable law enforcement security costs after the operative date of this article. It is not the intent of the Legislature to increase or decrease the responsibility of a county for the cost of court operations, as defined in Section 77003 or Rule 810 of the California Rules of Court, as it read on July 1, 1996, for court security services provided prior to January 1, 2003. It is the intent of the Legislature that a sheriff or marshal’s court law enforcement budget may not be reduced as a result of this article. Any new court

security costs permitted by this article shall not be operative unless the funding is provided by the Legislature.

(1) The Judicial Council shall adopt a rule establishing a working group on court security. The group shall consist of six representatives from the judicial branch of government, as selected by the Administrative Director of the Courts, two representatives of the counties, as selected by the California State Association of Counties, and three representatives of the county sheriffs, as selected by the California State Sheriffs' Association. It is the intent of the Legislature that this working group may recommend modifications only to the template used to determine that the security costs submitted by the courts to the Administrative Office of the Courts are permitted pursuant to this article. The template shall be a part of the trial court's financial policies and procedures manual and used in place of the definition of law enforcement costs in Function 8 of Rule 810 of the California Rules of Court. If the working group determines that there is a need to make recommendations to the template that specifically involve law enforcement or security personnel in courtrooms or court detention facilities, the membership of the working group shall change and consist of six representatives from the judicial branch of government selected by the Administrative Director of the Courts, two representatives of the counties selected by the California State Association of Counties, two representatives of the county sheriffs selected by the California State Sheriffs' Association, and two representatives of labor selected by the California Coalition of Law Enforcement Associations.

(2) The Judicial Council shall establish a working group on court security to promulgate recommended uniform standards and guidelines that may be used by the Judicial Council and any sheriff or marshal for the implementation of trial court security services. The working group shall consist of representatives from the judicial branch of government, the California State Sheriffs' Association, the California State Association of Counties, the Peace Officer's Research Association of California, and the California Coalition of Law Enforcement Associations, for the purpose of developing guidelines. The Judicial Council, after requesting and receiving recommendations from the working group on court security, shall promulgate and implement rules, standards, and policy directions for the trial courts in order to achieve efficiencies that will reduce security operating costs and constrain growth in those costs.

(3) When mutually agreed to by the courts, county, and the sheriff or marshal in any county, the costs of perimeter security in any building that the court shares with any county agency, excluding the sheriff or marshal's department, shall be apportioned based on the amount of the

total noncommon square feet of space occupied by the court and any county agency.

(4) "Allowable costs for equipment, services, and supplies," as defined in the contract law enforcement template, means the purchase and maintenance of security screening equipment and the costs of ammunition, batons, bulletproof vests, handcuffs, holsters, leather gear, chemical spray and holders, radios, radio chargers and holders, uniforms, and one primary duty sidearm.

(5) "Allowable costs for professional support staff for court security operations," as defined in the contract law enforcement template, means the salary, benefits, and overtime of staff performing support functions that, at a minimum, provide payroll, human resources, information systems, accounting, or budgeting.

Allowable costs for professional support staff for court security operations in each trial court shall not exceed 6 percent of total allowable costs for law enforcement security personnel services in courts with total allowable costs for law enforcement security personnel services less than ten million dollars (\$10,000,000) per year. Allowable costs for professional support staff for court security operations for each trial court shall not exceed 4 percent of total allowable costs for law enforcement security personnel services in courts with total allowable costs for law enforcement security personnel services exceeding ten million dollars (\$10,000,000) per year. Additional costs for services related to court-mandated special project support, beyond those provided for in the contract law enforcement template, are allowable only when negotiated by the trial court and the court law enforcement provider. Allowable costs shall not exceed actual costs of providing support staff services for law enforcement security personnel services.

The working group established pursuant to paragraph (1) of subdivision (a) may periodically recommend changes to the limit for allowable costs for professional support staff for court security operations based on surveys of actual expenditures incurred by trial courts and the court law enforcement provider in the provision of law enforcement security personnel services. Limits for allowable costs as stated in this section shall remain in effect until changes are recommended by the working group and adopted by the Judicial Council.

(6) "Allowable costs for security personnel services," as defined in the contract law enforcement template, means the salary and benefits of an employee, including, but not limited to, county health and welfare, county incentive payments, deferred compensation plan costs, FICA or Medicare, general liability premium costs, leave balance payout commensurate with an employee's time in court security services as a proportion of total service credit earned after January 1, 1998, premium

pay, retirement, state disability insurance, unemployment insurance costs, worker's compensation paid to an employee in lieu of salary, worker's compensation premiums of supervisory security personnel through the rank of captain, line personnel, inclusive of deputies, court attendants, contractual law enforcement services, prisoner escorts within the courts, and weapons screening personnel, court required training, and overtime and related benefits of law enforcement supervisory and line personnel.

(A) The Administrative Office of the Courts shall use the actual salary and benefits costs approved for court law enforcement personnel as of June 30 of each year in determining the funding request that will be presented to the Department of Finance.

(B) Courts and court security providers shall manage their resources to minimize the use of overtime.

(7) "Allowable costs for vehicle use for court security needs," as defined in the contract law enforcement template, means the per-mile recovery cost for vehicles used in rendering court law enforcement services, exclusive of prisoner or detainee transport to or from court. The standard mileage rate applied against the miles driven for the above shall be the standard reimbursable mileage rate in effect for judicial officers and employees at the time of contract development.

(b) Nothing in this article may increase a county's obligation or require any county to assume the responsibility for a cost of any service that was defined as a court operation cost, as defined by Function 8 of Rule 810 of the California Rules of Court, as it read on July 1, 1996, or that meets the definition of any new law enforcement component developed pursuant to this article.

SEC. 181. Section 71806 of the Government Code is amended to read:

71806. (a) At the conclusion of the regional transition period, trial courts in the region may employ certified and registered interpreters to perform spoken language interpretation for the trial courts in full-time or part-time court interpreter positions created by the trial courts with the authorization of the regional committee and subject to meet and confer in good faith. The courts may also continue to employ court interpreters pro tempore.

(b) For purposes of hiring interpreters for positions other than court interpreters pro tempore, unless otherwise provided in a memorandum of understanding or agreement with a recognized employee organization, trial courts shall consider applicants in the following order of priority:

(1) Court interpreters pro tempore in the same language who have performed work for that trial court for at least 150 court days or parts of

court days during each of the past five years, including time spent performing work for the trial court as an independent contractor.

(2) Court interpreters pro tempore in the same language who have performed work for that trial court for at least 60 court days or parts of court days in each of the past five years, including time spent performing work for the trial court as an independent contractor.

(3) Court interpreters pro tempore in the same language who have performed work for that trial court for at least 60 court days or parts of court days in at least two of the past four years, including time spent as an independent contractor.

(4) Other applicants.

(c) A trial court may not reject an applicant in favor of an applicant with lower priority except for cause.

(d) For purposes of this section, "for cause" means a fair and honest cause or reason regulated by good faith on the part of the party exercising the power.

(e) Applicants may be required to provide sufficient documentation to establish that they are entitled to priority in hiring. Trial courts shall make their records of past assignments available to interpreters for purposes of obtaining that documentation.

(f) Unless the parties to a dispute agree upon other procedures after the dispute arises, or other procedures are provided in a memorandum of understanding or agreement with a recognized employee organization, disputes about whether this section has been violated shall be resolved by binding arbitration through the California State Mediation and Conciliation Service.

(g) Subdivision (b) shall become inoperative on January 1, 2007, unless otherwise provided by a memorandum of understanding or agreement with a recognized employee organization, and on and after that time hiring shall be in accordance with the personnel rules of the trial court.

SEC. 182. Section 71828 of the Government Code is amended to read:

71828. (a) This chapter does not apply to trial courts in Solano and Ventura Counties. Labor and employment relations for court interpreters employed by trial courts in Solano and Ventura Counties shall remain subject to the Trial Court Employment Protection and Governance Act (Chapter 7 (commencing with Section 71600)), and nothing in this chapter shall be construed to affect the application of that act to court interpreters employed by those counties.

(b) If an interpreter employed by a trial court in a different county accepts a temporary appointment to perform services for a trial court in Solano or Ventura County, the interpreter shall be treated for purposes of compensation, employee benefits, seniority, and discipline and

grievance procedures, as having performed the services in the trial court in which the interpreter is employed.

(c) If an interpreter employed by a trial court in Solano or Ventura County accepts a temporary appointment to perform services for another trial court, the interpreter shall be treated for purposes of compensation, employee benefits, seniority, and discipline and grievance procedures, as having performed the services in the trial court in which the interpreter is employed.

(d) This chapter also does not apply to court interpreters who have been continuously employed by a trial court in any county beginning prior to September 1, 2002, and who are covered by a memorandum of understanding or agreement entered into pursuant to the Trial Court Employment Protection and Governance Act (Chapter 7 (commencing with Section 71600)), and to future employees hired in the same positions as replacements for those employees. For any other certified or registered interpreters hired by trial courts as employees prior to December 31, 2002, the trial courts may not change existing job classifications and may not reduce their wages and benefits during the regional transition period or during the term of an existing contract, whichever is longer.

SEC. 183. Section 77202 of the Government Code is amended to read:

77202. (a) The Legislature shall make an annual appropriation to the Judicial Council for the general operations of the trial courts based on the request of the Judicial Council. The Judicial Council's trial court budget request shall meet the needs of all trial courts in a manner that promotes equal access to the courts statewide. The Judicial Council shall allocate the appropriation to the trial courts in a manner that best ensures the ability of the courts to carry out their functions, promotes implementation of statewide policies, and promotes the immediate implementation of efficiencies and cost-saving measures in court operations, in order to guarantee access to justice to citizens of the state.

The Judicial Council shall ensure that its trial court budget request and the allocations made by it reward each trial court's implementation of efficiencies and cost-saving measures.

These efficiencies and cost-saving measures shall include, but not be limited to, the following:

(1) The sharing or merger of court support staff among trial courts across counties.

(2) The assignment of any type of case to a judge for all purposes commencing with the filing of the case and regardless of jurisdictional boundaries.

(3) The establishment of a separate calendar or division to hear a particular type of case.

(4) In rural counties, the use of all court facilities for hearings and trials of all types of cases and the acceptance of filing documents in any case.

(5) The use of alternative dispute resolution programs, such as arbitration.

(6) The development and use of automated accounting and case-processing systems.

(b) (1) The Judicial Council shall adopt policies and procedures governing practices and procedures for budgeting in the trial courts in a manner that best ensures the ability of the courts to carry out their functions and may delegate the adoption to the Administrative Director of the Courts. The Administrative Director of the Courts shall establish budget procedures and an annual schedule of budget development and management consistent with these rules.

(2) The Trial Court Policies and Procedures shall specify the process for a court to transfer existing funds between or among the budgeted program components to reflect changes in the court's planned operation or to correct technical errors. If the process requires a trial court to request approval of a specific transfer of existing funds, the Administrative Office of the Courts shall review the request to transfer funds and respond within 30 days of receipt of the request. The Administrative Office of the Courts shall respond to the request for approval or denial to the affected court, in writing, with copies provided to the Department of Finance, the Legislative Analyst's Office, the Legislature's budget committees, and the court's affected labor organizations.

(3) The Judicial Council shall circulate for comment to all affected entities any amendments proposed to the Trial Court Policies and Procedures as they relate to budget monitoring and reporting. Final changes shall be adopted at a meeting of the Judicial Council.

SEC. 184. Section 95000 of the Government Code, as added by Section 4 of Chapter 945 of the Statutes of 1993, is amended to read:

95000. The Legislature finds that disabled and high-risk infants now survive the newborn period due to greatly improved surgical and medical care services. However, in many communities, services that provide the careful nurturing and stimulation that these infants need to develop to their potential are not available. The Legislature hereby finds and declares that individualized early intervention services for infants who are at high risk or who have a disabling condition, and for their families, which provide educational, developmental, health, and social services with active parent involvement, can significantly reduce the potential impact of many disabling conditions and positively influence later development when the child reaches school age.

The Legislature further finds that infants have unique needs and therefore require both a unique service delivery model, which may be different from any system currently in place in California, and unique program and personnel standards specific to the needs of infants who are at high risk or who have a disabling condition and their families.

The Legislature further acknowledges that early intervention services are cost effective in that these services frequently make productive citizens of children and eliminate the far greater costs of long-term remedial treatment for, and unnecessary lifelong dependency on, others.

SEC. 185. Section 138.6 of the Health and Safety Code is amended to read:

138.6. (a) The department shall include in any literature that it produces regarding breast cancer information that shall include, but not be limited to, all of the following:

(1) Summarized information on risk factors for breast cancer in younger women, including, but not limited to, information on the increased risk associated with a family history of the disease.

(2) Summarized information regarding detection alternatives to mammography that may be available and more effective for at-risk women between the ages of 25 and 40 years.

(3) Information on Internet Web sites of relevant organizations, government agencies, and research institutions where information on mammography alternatives may be obtained.

(b) The information required by subdivision (a) shall be produced consistent with the department's protocols and procedures regarding the production and dissemination of information on breast cancer, including, but not limited to, the following factors:

(1) Restrictions imposed by space limitation on materials currently produced and distributed by the department.

(2) Future regular production and replacement schedules.

(3) Translation standards governing the number of languages and literacy levels.

(4) The nature, content, and purpose of the material into which this new information will be incorporated.

(c) It is the intent of the Legislature that subdivisions (a) and (b) apply to information that is distributed by any branch of the department, including, but not limited to, the Cancer Detection Section and the Office of Women's Health, which are charged with providing information about cancer.

SEC. 186. Section 444.20 of the Health and Safety Code is amended to read:

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

(a) The health care delivery system continues to undergo rapid and dramatic change. Health care services are provided by a variety of

managed care structures, including health maintenance organizations (HMOs), preferred provider organizations (PPOs), and an array of hybrid models that have elements of traditional fee-for-service and indemnity systems while applying managed care's utilization management, gatekeeper, and case management techniques. As a result of these changes, many consumers are confused about how managed care works or have problems navigating the health care system.

(b) The Health Rights Hotline operates in the Sacramento area to help all health care consumers. The program's goals are to provide an independent source of information and help for health care consumers, to collect needed information regarding health care consumers' problems, and to advocate for health care system improvements for all consumers. The program is independent from, but works in close collaboration with, health plans, providers, purchasers, insurance agents and brokers, consumer groups, and regulators. The program also works with the local Health Insurance Counseling and Advocacy Program, which serves Medicare beneficiaries and those imminent of becoming eligible for Medicare statewide.

(c) The program educates consumers about their health care rights and responsibilities. It also assists consumers with questions about their health plans and with specific problems through hotline and in-person services. In addition, the program collects and analyzes information, generated both by consumers' use of the program and from other sources, that can identify the strengths and weaknesses of particular plans, provider groups, and delivery systems. The program has informed health plans, providers, purchasers, consumers, regulators, and the Legislature about how independent support can be provided to consumers in managed care.

(d) Maintaining consumer confidence is a paramount concern in the operation of the program. While one vehicle to protect these communications would be to establish attorney-client relationships with consumers served, the program is generally not designed as a "legal" program and it would undercut its collaborative strategy and problem-solving orientation if assistance were required to be positioned in a legal context. Furthermore, it is critical that consumers using the program are free from any retribution.

(e) The Health Consumer Alliance, a partnership of independent, nonprofit legal services agencies, includes seven local health consumer assistance programs in the Counties of Alameda, Fresno, Los Angeles, Orange, San Diego, San Francisco, and San Mateo. These seven Health Consumer Centers help low-income consumers receive necessary health care through education, training, and advocacy, and analysis of systemic health access issues.

(f) The Health Insurance Counseling and Advocacy Program (HICAP) provides Medicare beneficiaries and those imminent of becoming eligible for Medicare with counseling and advocacy services on a statewide basis. HICAP offers information and assistance regarding Medicare, managed health care, health and long-term care related life and disability insurance, and related health care coverage plans.

SEC. 187. Section 1255 of the Health and Safety Code is amended to read:

1255. In addition to the basic services offered under the license, a general acute care hospital may be approved in accordance with subdivision (c) of Section 1277 to offer special services, including, but not limited to, the following:

- (a) Radiation therapy department.
- (b) Burn center.
- (c) Emergency center.
- (d) Hemodialysis center (or unit).
- (e) Psychiatric.
- (f) Intensive care newborn nursery.
- (g) Cardiac surgery.
- (h) Cardiac catheterization laboratory.
- (i) Renal transplant.

(j) Other special services as the department may prescribe by regulation.

A general acute care hospital that exclusively provides acute medical rehabilitation center services may be approved in accordance with subdivision (b) of Section 1277 to offer special services not requiring surgical facilities.

The state department shall adopt standards for special services and other regulations as may be necessary to implement this section. For cardiac catheterization laboratory service, the state department shall, at a minimum, adopt standards and regulations that specify that only diagnostic services, and what diagnostic services, may be offered by an acute care hospital or a multispecialty clinic as defined in subdivision (l) of Section 1206 that is approved to provide cardiac catheterization laboratory service but is not also approved to provide cardiac surgery service, together with the conditions under which the cardiac catheterization laboratory service may be offered.

A cardiac catheterization laboratory service shall be located in a general acute care hospital that is either licensed to perform cardiovascular procedures requiring extracorporeal coronary artery bypass that meets all of the applicable licensing requirements relating to staff, equipment, and space for service, or shall, at a minimum, have a licensed intensive care service and coronary care service and maintain a written agreement for the transfer of patients to a general acute care

hospital that is licensed for cardiac surgery or shall be located in a multispecialty clinic as defined in subdivision (l) of Section 1206. The transfer agreement shall include protocols that will minimize the need for duplicative cardiac catheterizations at the hospital in which the cardiac surgery is to be performed.

For purposes of this section, "multispecialty clinic," as defined in subdivision (l) of Section 1206, includes an entity in which the multispecialty clinic holds at least a 50-percent general partner interest and maintains responsibility for the management of the service, if all of the following requirements are met:

- (1) The multispecialty clinic existed as of March 1, 1983.
- (2) Prior to March 1, 1985, the multispecialty clinic did not offer cardiac catheterization services, dynamic multiplane imaging, or other types of coronary or similar angiography.
- (3) The multispecialty clinic creates only one entity that operates its service at one site.
- (4) These entities shall have the equipment and procedures necessary for the stabilization of patients in emergency situations prior to transfer and patient transfer arrangements in emergency situations that shall be in accordance with the standards established by the Emergency Medical Services Authority, including the availability of comprehensive care and the qualifications of any general acute care hospital expected to provide emergency treatment.

Except as provided in Sections 128525 and 128530, under no circumstances shall cardiac catheterizations be performed outside of a general acute care hospital or a multispecialty clinic, as defined in subdivision (l) of Section 1206, that qualifies for this definition as of March 1, 1983.

SEC. 188. Section 1367.04 of the Health and Safety Code is amended to read:

1367.04. (a) Not later than January 1, 2006, the department shall develop and adopt regulations establishing standards and requirements to provide health care service plan enrollees with appropriate access to language assistance in obtaining health care services.

(b) In developing the regulations, the department shall require every health care service plan and specialized health care service plan to assess the linguistic needs of the enrollee population, excluding Medi-Cal enrollees, and to provide for translation and interpretation for medical services, as indicated. A health care service plan that participates in the Healthy Families Program may assess the Healthy Families Program enrollee population separately from the remainder of its enrollee population for purposes of subparagraph (A) of paragraph (1). A health care service plan that chooses to separate its Healthy Families Program enrollment from the remainder of its enrollee population shall treat the

Healthy Families Program population separately for purposes of determining whether subparagraph (A) of paragraph (1) is applicable, and shall also treat the Healthy Families Program population separately for purposes of applying the percentage and numerical thresholds in subparagraph (A) of paragraph (1). The regulations shall include the following:

(1) Requirements for the translation of vital documents that include the following:

(A) A requirement that all vital documents, as defined pursuant to subparagraph (B), be translated into an indicated language, as follows:

(i) A health care service plan with an enrollment of 1,000,000 or more shall translate vital documents into the top two languages other than English as determined by the needs assessment as required by this subdivision and any additional languages when 0.75 percent or 15,000 of the enrollee population, whichever number is less, excluding Medi-Cal enrollment and treating Healthy Families Program enrollment separately indicates in the needs assessment as required by this subdivision a preference for written materials in that language.

(ii) A health care service plan with an enrollment of 300,000 or more but less than 1,000,000 shall translate vital documents into the top one language other than English as determined by the needs assessment as required by this subdivision and any additional languages when 1 percent or 6,000 of the enrollee population, whichever number is less, excluding Medi-Cal enrollment and treating Healthy Families Program enrollment separately indicates in the needs assessment as required by this subdivision a preference for written materials in that language.

(iii) A health care service plan with an enrollment of less than 300,000 shall translate vital documents into a language other than English when 3,000 or more or 5 percent of the enrollee population, whichever number is less, excluding Medi-Cal enrollment and treating Healthy Families Program enrollment separately indicates in the needs assessment as required by this subdivision a preference for written materials in that language.

(B) Specification of vital documents produced by the plan that are required to be translated. The specification of vital documents shall not exceed that of the Department of Health and Human Services (HHS) Office of Civil Rights (OCR) Policy Guidance (65 Federal Register 52762 (August 30, 2000)), but shall include all of the following:

(i) Applications.

(ii) Consent forms.

(iii) Letters containing important information regarding eligibility and participation criteria.

(iv) Notices pertaining to the denial, reduction, modification, or termination of services and benefits, and the right to file a grievance or appeal.

(v) Notices advising limited-English-proficient persons of the availability of free language assistance and other outreach materials that are provided to enrollees.

(vi) Translated documents shall not include a health care service plan's explanation of benefits or similar claim processing information that is sent to enrollees, unless the document requires a response by the enrollee.

(C) (i) For those documents described in subparagraph (B) that are not standardized but contain enrollee specific information, health care service plans shall not be required to translate the documents into the threshold languages identified by the needs assessment as required by this subdivision, but rather shall include with the documents a written notice of the availability of interpretation services in the threshold languages identified by the needs assessment as required by this subdivision.

(ii) Upon request, the enrollee shall receive a written translation of the documents described in clause (i). The health care service plan shall have up to, but not to exceed, 21 days to comply with the enrollee's request for a written translation. If an enrollee requests a translated document, all timeframes and deadline requirements related to the document that apply to the health care service plan and enrollees under the provisions of this chapter and under any regulations adopted pursuant to this chapter shall begin to run upon the health care service plan's issuance of the translated document.

(iii) For grievances that require expedited plan review and response in accordance with subdivision (b) of Section 1368.01, the health care service plan may satisfy this requirement by providing notice of the availability and access to oral interpretation services.

(D) A requirement that health care service plans advise limited-English-proficient enrollees of the availability of interpreter services.

(2) Standards to ensure the quality and accuracy of the written translations and that a translated document meets the same standards required for the English language version of the document. The English language documents shall determine the rights and obligations of the parties, and the translated documents shall be admissible in evidence only if there is a dispute regarding a substantial difference in the material terms and conditions of the English language document and the translated document.

(3) Requirements for surveying the language preferences and needs assessments of health care service plan enrollees within one year of the

effective date of the regulations that permit health care service plans to utilize various survey methods, including, but not limited to, the use of existing enrollment and renewal processes, subscriber newsletters, or other mailings. Health care service plans shall update the needs assessment, demographic profile, and language translation requirements every three years.

(4) Requirements for individual enrollee access to interpretation services.

(5) Standards to ensure the quality and timeliness of oral interpretation services provided by health care service plans.

(c) In developing the regulations, standards, and requirements, the department shall consider the following:

(1) Publications and standards issued by federal agencies, such as the Culturally and Linguistically Appropriate Services (CLAS) in Health Care issued by the United States Department of Health and Human Services Office of Minority Health in December 2000, and the Department of Health and Human Services (HHS) Office of Civil Rights (OCR) Policy Guidance (65 Federal Register 52762 (August 30, 2000)).

(2) Other cultural and linguistic requirements under state programs, such as Medi-Cal Managed Care Policy Letters, cultural and linguistic requirements imposed by the State Department of Health Services on health care service plans that contract to provide Medi-Cal managed care services, and cultural and linguistic requirements imposed by the Managed Risk Medical Insurance Board on health care service plans that contract to provide services in the Healthy Families Program.

(3) Standards adopted by other states pertaining to language assistance requirements for health care service plans.

(4) Standards established by California or nationally recognized accrediting, certifying, or licensing organizations and medical and health care interpreter professional associations regarding interpretation services.

(5) Publications, guidelines, reports, and recommendations issued by state agencies or advisory committees, such as the report card to the public on the comparative performance of plans and reports on cultural and linguistic services issued by the Office of Patient Advocate and the report to the Legislature from the Task Force on Culturally and Linguistically Competent Physicians and Dentists established by Section 852 of the Business and Professions Code.

(6) Examples of best practices relating to language assistance services by health care providers and health care service plans, including existing practices.

(7) Information gathered from complaints to the HMO Helpline and consumer assistance centers regarding language assistance services.

(8) The cost of compliance and the availability of translation and interpretation services and professionals.

(9) Flexibility to accommodate variations in plan networks and method of service delivery. The department shall allow for health care service plan flexibility in determining compliance with the standards for oral and written interpretation services.

(d) The department shall work to ensure that the biennial reports required by this section, and the data collected for those reports, are consistent with reports required by government-sponsored programs and do not require duplicative or conflicting data collection or reporting.

(e) The department shall seek public input from a wide range of interested parties through the Advisory Committee on Managed Health Care or other advisory bodies established by the director.

(f) A contract between a health care service plan and a health care provider shall require compliance with the standards developed under this section. In furtherance of this section, the contract shall require providers to cooperate with the plan by providing any information necessary to assess compliance.

(g) The department shall report biennially to the Legislature and the Advisory Committee on Managed Health Care, or other advisory bodies established by the director, regarding plan compliance with the standards, including results of compliance audits made in conjunction with other audits and reviews. The reported information shall also be included in the publication required under subparagraph (B) of paragraph (3) of subdivision (c) of Section 1368.02. The department shall also utilize the reported information to make recommendations for changes that further enhance standards pursuant to this section. The department may also delay or otherwise phase-in implementation of standards and requirements in recognition of costs and availability of translation and interpretation services and professionals.

(h) (1) Except for contracts with the State Department of Health Services Medi-Cal program, the standards developed under this section shall be considered the minimum required for compliance.

(2) The regulations shall provide that a health plan is in compliance if the plan is required to meet the same or similar standards by the Medi-Cal program, either by contract or state law, if the standards provide as much access to cultural and linguistic services as the standards established by this section for an equal or higher number of enrollees and therefore meet or exceed the standards of the regulations established pursuant to this section, and the department determines that the health care service plan is in compliance with the standards required by the Medi-Cal program. To meet this requirement, the department shall not be required to perform individual audits. The department shall,

to the extent feasible, rely on audits, reports, or other oversight and enforcement methods used by the State Department of Health Services.

(3) The determination pursuant to paragraph (2) shall only apply to the enrollees covered by the Medi-Cal program standards. A health care service plan subject to paragraph (2) shall comply with the standards established by this section with regard to enrollees not covered by the Medi-Cal program.

(i) Nothing in this section shall prohibit a government purchaser from including in their contracts additional translation or interpretation requirements, to meet linguistic or cultural needs, beyond those set forth pursuant to this section.

SEC. 189. Section 1375.7 of the Health and Safety Code is amended to read:

1375.7. (a) This section shall be known and may be cited as the Health Care Providers' Bill of Rights.

(b) No contract issued, amended, or renewed on or after January 1, 2003, between a plan and a health care provider for the provision of health care services to a plan enrollee or subscriber shall contain any of the following terms:

(1) (A) Authority for the plan to change a material term of the contract, unless the change has first been negotiated and agreed to by the provider and the plan or the change is necessary to comply with state or federal law or regulations or any accreditation requirements of a private sector accreditation organization. If a change is made by amending a manual, policy, or procedure document referenced in the contract, the plan shall provide 45 business days' notice to the provider, and the provider has the right to negotiate and agree to the change. If the plan and the provider cannot agree to the change to a manual, policy, or procedure document, the provider has the right to terminate the contract prior to the implementation of the change. In any event, the plan shall provide at least 45 business days' notice of its intent to change a material term, unless a change in state or federal law or regulations or any accreditation requirements of a private sector accreditation organization require a shorter timeframe for compliance. However, if the parties mutually agree, the 45-business day notice requirement may be waived. Nothing in this subparagraph limits the ability of the parties to mutually agree to the proposed change at any time after the provider has received notice of the proposed change.

(B) If a contract between a provider and a plan provides benefits to enrollees or subscribers through a preferred provider arrangement, the contract may contain provisions permitting a material change to the contract by the plan if the plan provides at least 45 business days' notice to the provider of the change and the provider has the right to terminate the contract prior to the implementation of the change.

(2) A provision that requires a health care provider to accept additional patients beyond the contracted number or in the absence of a number if, in the reasonable professional judgment of the provider, accepting additional patients would endanger patients' access to, or continuity of, care.

(3) A requirement to comply with quality improvement or utilization management programs or procedures of a plan, unless the requirement is fully disclosed to the health care provider at least 15 business days prior to the provider executing the contract. However, the plan may make a change to the quality improvement or utilization management programs or procedures at any time if the change is necessary to comply with state or federal law or regulations or any accreditation requirements of a private sector accreditation organization. A change to the quality improvement or utilization management programs or procedures shall be made pursuant to paragraph (1).

(4) A provision that waives or conflicts with any provision of this chapter. A provision in the contract that allows the plan to provide professional liability or other coverage or to assume the cost of defending the provider in an action relating to professional liability or other action is not in conflict with, or in violation of, this chapter.

(5) A requirement to permit access to patient information in violation of federal or state laws concerning the confidentiality of patient information.

(c) (1) When a contracting agent sells, leases, or transfers a health provider's contract to a payor, the rights and obligations of the provider shall be governed by the underlying contract between the health care provider and the contracting agent.

(2) For purposes of this subdivision, the following terms shall have the following meanings:

(A) "Contracting agent" has the meaning set forth in paragraph (2) of subdivision (d) of Section 1395.6.

(B) "Payor" has the meaning set forth in paragraph (3) of subdivision (d) of Section 1395.6.

(d) Any contract provision that violates subdivision (b) or (c) shall be void, unlawful, and unenforceable.

(e) The department shall compile the information submitted by plans pursuant to subdivision (h) of Section 1367 into a report and submit the report to the Governor and the Legislature by March 15 of each calendar year.

(f) Nothing in this section shall be construed or applied as setting the rate of payment to be included in contracts between plans and health care providers.

(g) For purposes of this section the following definitions apply:

(1) “Health care provider” means any professional person, medical group, independent practice association, organization, health facility, or other person or institution licensed or authorized by the state to deliver or furnish health services.

(2) “Material” means a provision in a contract to which a reasonable person would attach importance in determining the action to be taken upon the provision.

SEC. 190. Section 1569.30 of the Health and Safety Code is amended to read:

1569.30. (a) The department shall adopt, amend, or repeal, in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, reasonable rules, regulations, and standards as may be necessary or proper to carry out the purposes and intent of this chapter and to enable the department to exercise the powers and perform the duties conferred upon it by this chapter, not inconsistent with any statute of this state.

(b) The regulations governing residential facilities for the elderly under the Community Care Facilities Act (Chapter 3 (commencing with Section 1500)) shall continue to govern residential care facilities for the elderly under this act until amended or repealed.

SEC. 191. Section 1569.70 of the Health and Safety Code is amended to read:

1569.70. It is the intent of the Legislature to develop and implement a plan to establish three levels of care under the residential care facility for the elderly license, subject to future Budget Act appropriations and statutory authorization to implement levels of care.

(a) The guidelines for the development of these levels of care are:

(1) Level I—Base care and supervision. Residents at this level are able to maintain a higher degree of independence and need only minimum care and supervision, as defined, and minimal personal care assistance.

(2) Level II—Nonmedical personal care. Residents at this level have functional limitations and psychosocial needs requiring not only care and supervision but frequent assistance with personal activities of daily living and active intervention to help them maintain their potential for independent living.

(3) Level III—Health related assistance. Residents at this level require the services of lower levels and rely on the facility for extensive assistance with personal activities of daily living. This level may include residents who also require the occasional services of an appropriate skilled professional due to chronic health problems and returning residents recovering from illness, injury, or treatment that required placement in facilities providing higher levels of care.

These levels are to be based on the services required by residents at each level due to their functional limitations.

(b) The levels of care plan shall include:

(1) Guidelines for meeting requirements at each level of care by utilizing appropriate community and professional services. Options shall be provided to allow facilities to meet resident needs by accessing community services or hiring appropriate staff.

(2) Assessment procedures for facility evaluation of residents' level of care needs.

(3) Process for ensuring the individual facility's ability to serve clients at each level of care they intend to provide.

(4) Recommendations for a supplemental rate structure based on the services required at Levels II and III to be provided for residents who need those levels of care and are recipients of SSI/SSP. These rates shall be in addition to the basic SSI/SSP rate for providing care supervision and shall reflect actual costs of operation for residential care facilities for the elderly.

(5) Procedures for assessment and certification of SSI/SSP recipients, by county social services departments to allow for administration of the supplemental rate structure.

(6) Procedures for evaluating and monitoring the appropriateness of the levels of care determined for SSI/SSP recipients.

(c) Implementation of the levels of care system shall consider the applicability of the 1985 level of care report developed by the California Health and Human Services Agency, so as to ensure continuity in the residential care facility for the elderly program as outlined under this chapter.

SEC. 192. Section 1596.816 of the Health and Safety Code is amended to read:

1596.816. (a) The Community Care Licensing Division of the department shall regulate child care licensees through an organizational unit that is separate from that used to regulate all other licensing programs. The chief of the child care licensing branch shall report directly to the Deputy Director of the Community Care Licensing Division.

(b) All child care regulatory functions of the licensing division, including the adoption and interpretation of regulations, staff training, monitoring and enforcement functions, administrative support functions, and child care advocacy responsibilities shall be carried out by the child care licensing branch to the extent that separation of these activities can be accomplished without new costs to the department.

(c) The Child Care Ombudsman Program shall be transferred to the Child Care Advocate Branch when Section 10 of this act becomes

operative or upon implementation of an action that supports expansion of the program.

(d) Those persons conducting inspections of day care facilities shall meet qualifications approved by the State Personnel Board.

(e) The department shall review a sampling of child care facility inspection reports and submit findings to the Legislature by January 15 of each year. Insofar as data is available, this report shall summarize the types and frequencies of violations, correlating that data with health and safety complaints and accidents, and recommending further protective legislative measures where warranted.

(f) The department shall notify the appropriate legislative committees whenever actual staffing levels of licensing program analysts within the child care licensing branch drops more than 10 percent below authorized positions.

(g) The budget for the child care licensing branch shall be included as a separate entry within the budget of the department.

SEC. 193. Section 1794.04 of the Health and Safety Code is amended to read:

1794.04. Except as otherwise provided in subdivision (b) of Section 1794.03, no person, political subdivision of the state, or governmental agency shall provide home dialysis services unless a license has been issued under this chapter. Any person, political subdivision of the state, or governmental agency desiring a license for a home dialysis agency under this chapter shall file with the department a verified application on a form prescribed and furnished by the department that contains any information as may be required by the department for the proper administration and enforcement of this chapter.

SEC. 194. Section 11758 of the Health and Safety Code is amended to read:

11758. The definitions contained in this chapter shall govern the construction of this chapter, unless the context requires otherwise.

SEC. 195. Section 13108.5 of the Health and Safety Code is amended to read:

13108.5. (a) The State Fire Marshal, in consultation with the Director of Forestry and Fire Protection and the Director of Housing and Community Development, shall, pursuant to Section 18930, propose fire protection building standards for roofs, exterior walls, structure projections, including, but not limited to, porches, decks, balconies, and eaves, and structure openings, including, but not limited to, attic and eave vents and windows of buildings in fire hazard severity zones, including very high fire hazard severity zones designated by the Director of Forestry and Fire Protection pursuant to Article 9 (commencing with Section 4201) of Chapter 1 of Part 2 of Division 4 of the Public Resources Code.

(b) Building standards adopted pursuant to this section shall also apply to buildings located in very high fire hazard severity zones designated pursuant to Chapter 6.8 (commencing with Section 51175) of Part 1 of Division 1 of Title 5 of the Government Code, and other areas designated by a local agency following a finding supported by substantial evidence in the record that the requirements of the building standards adopted pursuant to this section are necessary for effective fire protection within the area.

(c) Building standards adopted pursuant to this section shall also apply to buildings located in urban wildland interface communities. A local agency may, at its discretion, include in or exclude from the requirements of these building standards any area in its jurisdiction following a finding supported by substantial evidence in the record at a public hearing that the requirements of these building standards are necessary or not necessary, respectively, for effective fire protection within the area. Changes made by a local agency to an urban wildland interface community area following a finding supported by substantial evidence in the record shall be final and shall not be rebuttable.

(d) For purposes of subdivision (c), "urban wildland interface community" means a community listed in "Communities at Risk from Wild Fires," produced by the California Department of Forestry and Fire Protection, Fire and Resource Assessment Program, pursuant to the National Fire Plan, federal Fiscal Year 2001 Department of the Interior and Related Agencies Appropriations Act (Public Law 106-291).

SEC. 196. Section 17037.5 of the Health and Safety Code is amended to read:

17037.5. (a) Any person who ceases to operate or maintain employee housing that is subject to the permit requirement pursuant to this part shall be required to annually complete and submit a Certificate of Non-Operation to the enforcement agency. The Certificate of Non-Operation shall be submitted for two years following the discontinuation of the use of any area on the property as employee housing. The Certificate of Non-Operation shall attest under penalty of perjury that the employee housing has been destroyed, or is no longer owned or operated, or has not been and shall not be occupied by five or more employees during the calendar year.

(b) The Certificate of Non-Operation shall include the owner's name and address, the operator's name and address, the employee housing name and location, the maximum number of employees who have occupied or shall occupy the employee housing during the calendar year, and any other information considered relevant by the enforcement agency. The Certificate of Non-Operation shall be completed and submitted to the enforcement agency no later than 30 calendar days after the enforcement agency provides the form to the owner or operator.

SEC. 197. Section 17921.9 of the Health and Safety Code is amended to read:

17921.9. (a) The Legislature finds and declares all of the following:

(1) The deterioration of copper piping has become a serious problem in various communities in the state.

(2) Chlorinated polyvinyl chloride (CPVC) plastic piping has been successfully used for many years in other states and in nations around the globe, and has also been widely used, in accordance with federal regulations, in mobilehome construction.

(3) The Department of Community Development of the City of Colton, acting pursuant to a good-faith belief that it was in compliance with state regulations, approved the use of CPVC piping as an alternative to copper piping in early 1993 when the department was confronted with widespread deterioration of copper piping systems in a tract in the western part of that city.

(4) The retrofitting of homes in Colton with CPVC piping has been successful.

(b) It is, therefore, the intent of the Legislature in enacting this section to allow the use of CPVC piping in building construction in California as an alternate material under specified conditions.

(c) Notwithstanding any other provision of law, the provisions of the California Plumbing Code that do not authorize the use of CPVC piping within California shall not apply to any local government that permitted the use of CPVC piping for potable water systems within its jurisdiction prior to January 1, 1996. Any local government that permitted the use of CPVC piping for potable water systems within its jurisdiction prior to January 1, 1996, shall require both of the following:

(1) That the CPVC piping to be used is listed as an approved material in, and is installed in accordance with, the 1994 edition of the Uniform Plumbing Code.

(2) That all installations of CPVC strictly comply with the interim flushing procedures and worker safety measures set forth in subdivisions (d) and (e).

(d) The following safe work practices shall be adhered to when installing both CPVC and copper plumbing pipe in California after the effective date of the act that adds this section:

(1) (A) Employers shall provide education and training to inform plumbers of risks, provide equipment and techniques to help reduce exposures from plumbing pipe installation, foster safe work habits, and post signs to warn against the drinking of preoccupation water.

(B) For purposes of this paragraph, "training" shall include training in ladder safety, safe use of chain saws and wood-boring tools, hazards associated with other construction trades, hazards from molten solder

and flux, and the potential hazards and safe use of soldering tools and materials.

(2) Cleaners shall be renamed as primers, include strong warnings on the hazards of using primers as cleaners, and include dyes to discourage use as cleaners.

(3) Applicators and daubers shall be limited to small sizes.

(4) Enclosed spaces shall be ventilated with portable fans when installing CPVC pipe.

(5) Protective impermeable gloves shall be utilized when installing CPVC pipe.

(6) Employers shall provide onsite portable eyewash stations for all employees to allow for immediate flushing of eyes in the event of splashing of hot flux.

(7) Employers using acetylene torches shall ensure that the acetylene tanks are regularly maintained and inspected in accordance with applicable regulatory requirements. Fire extinguishers shall be kept in close proximity to the workplace.

(e) All of the following flushing procedures shall be adhered to when installing CPVC pipe in California after the effective date of the act that adds this section:

(1) When plumbing is completed and ready for pressure testing, each cold water and hot water tap shall be flushed starting with the fixture (basin, sink, tub, or shower) closest to the water meter and continuing with each successive fixture, moving toward the end of the system. Flushing shall be continued for at least one minute or longer until water appears clear at each fixture. This step may be omitted if a jurisdiction requires the building inspector to test each water system.

(2) The system shall be kept filled with water for at least one week and then flushed in accordance with the procedures set forth in paragraph (1). The system shall be kept filled with water and not drained.

(3) Before the premises are occupied, the hot water heater shall be turned on and the system shall be flushed once more. Commencing with the fixture closest to the hot water heater, the hot water tap shall be permitted to run until hot water is obtained. The time required to get hot water in a specific tap shall be determined and then the cold water tap at the same location shall be turned on for the same period of time. This procedure shall be repeated for each fixture in succession toward the end of the system.

(f) Nothing in this section shall be construed to affect the applicability of any existing law imposing liability on a manufacturer, distributor, retailer, installer, or any other person or entity under the laws of this state for liability.

(g) This section shall not be operative after January 1, 1998.

SEC. 198. Section 17991 of the Health and Safety Code is amended to read:

17991. (a) The sale or other transfer of property to a third party shall not render moot an administrative or judicial action or proceeding pursuant to this article, including an action under Section 17982, instituted by an enforcement agency, or a receiver on behalf of an enforcement agency, against the owner of record on the date a citation for, or other notice of, a violation of this part was issued.

(b) In the event of any sale or other transfer of property to a third party during the period between the issuance of the notice of violation and the abatement of the violation, or any administrative or judicial actions related thereto, within five days after the sale or transfer occurs, the transferor shall record a Notice of Conveyance of Substandard Property with the county recorder where the property is located, identifying the name and address of the buyer or transferee and executed with a signature that the information is true and correct, under penalty of perjury.

(c) In the event of any sale of other transfer of property to a third party during the period between the issuance of the notice of violation and the abatement of the violation, or any administrative or judicial actions related thereto, the transferor shall provide all of the following information to the enforcement agency within five days after the sale or transfer occurs:

(1) If the seller or transferor is not an individual person, the name, address, and driver's license number or identification card number of each individual who has an interest in excess of 5 percent in the entity which is selling or transferring the property.

(2) If the buyer or transferee is an individual person, the name, address, and driver's license number or identification number of that individual.

(3) If the buyer or transferee is not an individual person, the name, address, and driver's license number or identification card number of each individual who has an interest in excess of 5 percent in the entity that is the buyer or transferee of the property.

SEC. 199. Section 25117.4.1 of the Health and Safety Code is amended to read:

25117.4.1. (a) "Local health officer" means county health officers, city health officers, and district health officers, as defined in this code.

(b) "Local officer" means a local public officer authorized to implement this chapter pursuant to subdivision (a) of Section 25180.

SEC. 200. Section 25121.3 of the Health and Safety Code is amended to read:

25121.3. (a) "Remote site" means a site operated by the generator where hazardous waste is initially collected, at which generator staff,

other than security staff, is not routinely located, and that is not contiguous to a staffed site operated by the generator of the hazardous waste or that does not have access to a staffed site without the use of public roads. Generator staff who visit a remote location to perform inspection, monitoring, or maintenance activities on a periodic scheduled or random basis, less frequently than daily, are not considered to be routinely located at the remote location.

(b) Notwithstanding this chapter or the regulations adopted by the department pursuant to this chapter, a generator who complies with the notification requirements of subdivision (d) of Section 25110.10 may hold hazardous waste at the remote site where the hazardous waste is initially collected, or at another remote site operated by the generator, while en route to the consolidation site, if all of the following requirements are met with respect to the hazardous waste:

(1) The hazardous waste is a non-RCRA hazardous waste, or the hazardous waste or its management at the remote site is otherwise exempt from, or is not otherwise regulated pursuant to, the federal act.

(2) The requirements of subdivision (b) of Section 25110.10 are met.

(3) All personnel handling hazardous waste at any remote site complete health and safety training equivalent to the training required under Section 5194 of Title 8 of the California Code of Regulations, prior to being assigned to handle hazardous waste.

(4) A description of the actions that the generator's personnel will take to minimize hazards to human health and safety or to the environment from fires, explosions, or any unplanned release of hazardous waste or hazardous waste constituents to air, soil, or surface water at the remote site where the hazardous waste is being managed shall be included in the contingency plan for the consolidation site. A single generic description of response actions may be used for all similar remote sites associated with a single consolidation site.

(5) As soon as the generator begins to actively manage the hazardous waste at the remote site, the generator places the hazardous waste in a container meeting the requirements of the United States Department of Transportation applicable to containers used to transport hazardous waste, and the containers are managed in accordance with the regulations adopted by the department regarding the management by generators of containers used to hold hazardous waste.

(6) The containers used to hold the hazardous waste at the remote site are labeled, in accordance with the regulations adopted by the department pertaining to labeling requirements for generators, as soon as the hazardous waste is placed in the container.

(7) The generator makes a reasonable effort to minimize the possibility of unknowing or unauthorized entry into the area where the hazardous waste is held at the remote site. If the remote site is located

within one mile of a residential or commercial area, or is otherwise readily accessible to the public, the area where hazardous waste is held at the remote site shall at all times be supervised by employees or agents of the generator or otherwise secured so as to prevent unknowing entry and to minimize the possibility for unauthorized entry.

(c) If the management of hazardous wastes at a remote site does not meet all of the conditions specified in subdivision (b), the hazardous waste shall be subject to all other applicable generator and facility requirements of this chapter and the regulations adopted by the department to implement this chapter.

SEC. 201. Section 25160.6 of the Health and Safety Code is amended to read:

25160.6. (a) (1) If a hazardous waste shipment is rejected in its entirety before the original manifest is signed by an offsite hazardous waste facility operator, the original manifest shall be used to transport the rejected load to either the generator or an alternate facility designated by the generator.

(2) An offsite hazardous waste facility operator is not required to sign a manifest pursuant to this subdivision until the hazardous waste listed on the manifest is fully unloaded at the facility. If the transporter leaves a loaded or partially loaded trailer at the facility, the facility operator shall sign the manifest before the transporter departs the facility.

(3) The hazardous waste facility operator shall, when preparing a manifest to accompany a rejected load of hazardous waste, enter the number of the original manifest in Box 19 on the new manifest, and the facility operator shall enter the number of the new manifest in Box 19 on those copies of the original manifest still in the facility operator's possession. The facility operator shall enter this information elsewhere on the manifest if required by regulations adopted by the department. The facility operator shall also use Box 19 on the new manifest, or any other box that is required by the department's regulations, to identify the shipment as a rejected load.

(4) After an offsite hazardous waste facility operator rejects a shipment of hazardous waste, the transporter shall transport the hazardous waste, accompanied by the original manifest or a new manifest, to either the generator or an alternate facility designated by the generator. The transporter shall obtain a signature on the manifest from the operator of the alternate designated facility or the generator, whichever receives the rejected shipment.

(b) For purposes of receiving hazardous waste rejected by an offsite hazardous waste facility operator, the generator of the hazardous waste shall be considered a designated facility for the receipt of hazardous waste generated by that generator. For purposes of this section, "designated facility" has the same meaning as that term is defined in

Section 66260.10 of Title 22 of the California Code of Regulations, including any amendments thereto.

(c) (1) An offsite hazardous waste facility operator that rejects an entire shipment or a partial shipment of hazardous waste pursuant to this section is not the generator of that hazardous waste for purposes of this chapter, including any regulations adopted pursuant to this chapter, nor an arranger for disposal of the waste, nor a transporter who chooses the location for disposal of waste.

(2) (A) An offsite hazardous waste facility operator that rejects an entire shipment or a partial shipment of hazardous waste pursuant to this section is the offeror of the rejected hazardous waste.

(B) For purposes of this chapter and regulations adopted pursuant to this chapter, "offeror" means a person who ships hazardous waste and is responsible for ensuring that the hazardous waste is properly prepared for shipment but who is not an arranger for disposal or a transporter who chooses the location for disposal of the waste.

(3) An offsite hazardous waste facility operator that rejects an entire shipment or a partial shipment of hazardous waste pursuant to this section shall comply with the department's regulations concerning manifest use, container condition and management, and container packaging, labeling, marking, and placarding with respect to the rejected hazardous waste.

(d) Except as provided in subdivision (e), the generator of hazardous waste who receives a rejected shipment of that hazardous waste may accumulate the rejected hazardous waste onsite for 90 days or less, in accordance with the requirements of paragraph (1) of subdivision (a) of Section 66262.34 of Title 22 of the California Code of Regulations. The generator of the rejected hazardous waste shall label or mark the hazardous waste in a manner that indicates that it is rejected hazardous waste and shall include the date it was received by the generator. If the generator of the rejected hazardous waste commingles it with other hazardous wastes, the shorter of any applicable accumulation time limits shall apply to the commingled hazardous waste.

(e) A transporter of hazardous waste, that consolidates shipments of waste pursuant to Section 25160.2 and whose consolidated shipment is rejected by an offsite hazardous waste facility, may hold that shipment on the transport vehicle at the transporter's facility for no more than 10 days from the date the shipment is rejected, consistent with paragraph (3) of subdivision (b) of Section 25123.3. The transporter may not commingle the consolidated shipment with any other waste.

(f) A generator of hazardous waste who receives a shipment of rejected waste shall comply with the requirements of Sections 66265.71 and 66265.72 of Title 22 of the California Code of Regulations.

(g) To the extent that the United States Environmental Protection Agency adopts regulations under the federal act that preempt or are more stringent than the requirements of this section, offsite hazardous waste facilities, generators, and transporters shall instead comply with those regulations on and after the date those federal regulations become effective in California, or on and after the effective date of regulations adopted by the department in accordance with those federal regulations, whichever date occurs first.

SEC. 202. Section 25184.1 of the Health and Safety Code is amended to read:

25184.1. If any administrative order or decision that imposes a penalty is issued pursuant to this chapter or Chapter 6.8 (commencing with Section 25300), the administrative order or decision has become final, and, if applicable, a petition for judicial review of the final order or decision has not been filed within the time limits prescribed in Section 11523 of the Government Code, the department may apply to the clerk of the appropriate court for a judgment to collect the administrative penalty. The department's application, which shall include a certified copy of the final administrative order or decision, constitutes a sufficient showing to warrant issuance of the judgment. The court clerk shall enter the judgment immediately in conformity with the application. The judgment so entered has the same force and effect as, and is subject to all the provisions of law relating to, a judgment in a civil action, and may be enforced in the same manner as any other judgment of the court in which it is entered.

SEC. 203. Section 25201.1 of the Health and Safety Code is amended to read:

25201.1. (a) A solid waste facility, as defined in Section 40194 of the Public Resources Code, or any recycling facility, that accepts and processes empty aerosol cans and de minimis quantities of nonempty aerosol cans collected as an incidental part of the collection of empty cans for recycling, is exempt from the requirement to obtain a hazardous waste facilities permit or other authorization from the department for purposes of conducting that activity if both of the following conditions are met:

(1) The nonempty aerosol cans are from products that are normally intended for household use and were generated by households.

(2) The city, county, or regional agency in the area that the facility serves provides educational information to the public on the safe collection and recycling or disposal of empty and nonempty aerosol cans that encourages, to the maximum extent feasible, the separation and recycling of empty aerosol cans through such programs as curbside, dropoff, and buy-back recycling programs, and the diversion of nonempty aerosol cans into household hazardous waste collection

programs. Issues of compliance with this subdivision shall be determined by the California Integrated Waste Management Board or by the appropriate local enforcement agency.

(b) This section is not intended to alter the obligation to manage as a hazardous waste any nonempty aerosol cans that meet the requirements of Section 25117, and that are not subject to the exemption provided in this section.

(c) Nothing in this section exempts a solid waste facility that engages in an activity that requires a hazardous waste facility permit, other than the acceptance and processing of empty aerosol cans and de minimis quantities of nonempty aerosol cans as an incidental part of the collection of empty cans for recycling, from the requirement of obtaining a hazardous waste facilities permit.

SEC. 204. Section 25210.6 of the Health and Safety Code is amended to read:

25210.6. (a) On or before December 31, 2005, the department shall adopt regulations specifying the best management practices for a person managing perchlorate materials. These practices may include, but are not limited to, all of the following:

(1) Procedures for documenting the amount of perchlorate materials managed by the facility.

(2) Management practices necessary to prevent releases of perchlorate materials, including, but not limited to, containment standards, usage, processing and transferring practices, and spill response procedures.

(b) (1) The department shall consult with the State Air Resources Board, the Office of Environmental Health Hazard Assessment, the State Water Resources Control Board, the Office of Emergency Services, the State Fire Marshal, and the California certified unified program agencies forum before adopting regulations pursuant to subdivision (a).

(2) The department shall also, before adopting regulations pursuant to subdivision (a), review existing federal, state, and local laws governing the management of perchlorate materials to determine the degree to which uniform and adequate requirements already exist, so as to avoid any unnecessary duplication of, or interference with the application of, those existing requirements.

(3) In adopting regulations pursuant to subdivision (a), the department shall ensure that those regulations are at least as stringent as, and to the extent practical consistent with, the existing requirements of Chapter 6.95 (commencing with Section 25500) and the Uniform Fire Code governing the management of perchlorate materials.

(c) The regulations adopted by the department pursuant to this section shall be adopted as emergency regulations in accordance with Chapter

3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and for the purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and 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, including subdivision (e) of Section 11346.1 of the Government Code, any emergency regulations adopted pursuant to this section shall be filed with, but not be repealed by, the Office of Administrative Law and shall remain in effect until revised by the department.

(d) The department may implement an outreach effort to educate persons who manage perchlorate materials concerning the regulations promulgated pursuant to subdivision (a).

SEC. 205. Section 25360.6 of the Health and Safety Code is amended to read:

25360.6. (a) The department shall, if it determines that it is practicable and in the public interest, propose a final administrative or judicial expedited settlement with potentially responsible parties if the settlement involves only a minor portion of the response costs at a facility and, if in the judgment of the department, either of the following conditions are met:

(1) The amount of hazardous substances and the toxic or other hazardous effects of the hazardous substances contributed by the potentially responsible party to the facility are minimal in comparison to the amount and effects of other hazardous substances at the facility.

(2) The potentially responsible party is the owner of the real property on or in which the facility is located, did not conduct or permit the generation, transportation, storage, treatment, or disposal of any hazardous substance at the facility, and did not contribute to the release or threat of release of a hazardous substance at the facility through any act or omission. This paragraph does not apply if the potentially responsible party, at the time of the purchase of the real property, knew or should have known that the property was used for the generation, transportation, storage, treatment, or disposal of any hazardous substance.

(b) A party who has resolved its liability to the state under this section shall not be liable for claims for contribution regarding matters addressed in the settlement. A settlement under this section does not discharge any of the other potentially responsible parties unless its terms so provide, but it reduces the potential liability of the others by the amount of the settlement.

(c) Any person who enters into a settlement under this section shall provide any information relevant to the administration of this chapter that is requested by the department. In order to obtain the contribution protection provided by subdivision (b), a potentially responsible party participating in a de minimis settlement shall certify that it has responded fully and accurately to all of the department's requests for information, and that it has provided all of the relevant documents pertaining to the facility to the department.

(d) Nothing in this section shall be construed to affect the authority of the department or regional board to reach settlements with other potentially responsible parties under this chapter.

SEC. 206. Section 25501 of the Health and Safety Code is amended to read:

25501. Unless the context indicates otherwise, the following definitions govern the construction of this chapter:

(a) "Administering agency" means the local agency authorized, pursuant to Section 25502, to implement and enforce this chapter.

(b) "Agricultural handler" means an entity identified in paragraph (5) of subdivision (c) of Section 25503.5.

(c) "Area plan" means a plan established pursuant to Section 25503 by an administering agency for emergency response to a release or threatened release of a hazardous material within a city or county.

(d) "Business" means an employer, self-employed individual, trust, firm, joint stock company, corporation, partnership, or association. For purposes of this chapter, "business" includes a business organized for profit and a nonprofit business.

(e) "Business plan" means a separate plan for each facility, site, or branch of a business that meets the requirements of Section 25504.

(f) "Certification statement" means a statement signed by the business owner, operator, or officially designated representative that attests to all of the following:

(1) The information contained in the annual inventory form most recently submitted to the administering agency is complete, accurate, and up to date.

(2) There has been no change in the quantity of any hazardous material as reported in the most recently submitted annual inventory form.

(3) No hazardous materials subject to the inventory requirements of this chapter are being handled that are not listed on the most recently submitted annual inventory form.

(4) The most recently submitted annual inventory form contains the information required by Section 11022 of Title 42 of the United States Code.

(g) (1) “Certified Unified Program Agency” or “CUPA” means the agency certified by the secretary to implement the unified program specified in Chapter 6.11 (commencing with Section 25404) within a jurisdiction.

(2) “Participating Agency” or “PA” means an agency that has a written agreement with the CUPA pursuant to subdivision (d) of Section 25404.3, and is approved by the secretary, to implement or enforce one or more of the unified program elements specified in paragraphs (4) and (5) of subdivision (c) of Section 25404, in accordance with the provisions of Sections 25404.1 and 25404.2.

(3) “Unified Program Agency” or “UPA” means the CUPA, or its participating agencies to the extent each PA has been designated by the CUPA, pursuant to a written agreement, to implement or enforce a particular unified program element specified in paragraphs (4) and (5) of subdivision (c) of Section 25404. For purposes of this chapter, the UPAs have the responsibility and authority, to the extent provided by this chapter and Sections 25404.1 and 25404.2, to implement and enforce only those requirements of this chapter listed in paragraphs (4) and (5) of subdivision (c) of Section 25404. The UPAs also have the responsibility and authority, to the extent provided by this chapter and Sections 25404.1 and 25404.2, to implement and enforce the regulations adopted to implement the requirements of this chapter listed in paragraphs (4) and (5) of subdivision (c) of Section 25404. After a CUPA has been certified by the secretary, the unified program agencies shall be the only local agencies authorized to enforce the requirements of this chapter listed in paragraphs (4) and (5) of subdivision (c) of Section 25404 within the jurisdiction of the CUPA.

(h) “City” includes any city and county.

(i) “Chemical name” means the scientific designation of a substance in accordance with the nomenclature system developed by the International Union of Pure and Applied Chemistry or the system developed by the Chemical Abstracts Service.

(j) “Common name” means any designation or identification, such as a code name, code number, trade name, or brand name, used to identify a substance by other than its chemical name.

(k) “Department” means the Department of Toxic Substances Control and “director” means the Director of Toxic Substances Control.

(l) “Emergency rescue personnel” means any public employee, including, but not limited to, any fireman, firefighter, or emergency rescue personnel, as defined in Section 245.1 of the Penal Code, or personnel of a local EMS agency, as designated pursuant to Section 1797.200, or a poison control center, as defined by Section 1797.97, who responds to any condition caused, in whole or in part, by a hazardous

material that jeopardizes, or could jeopardize, public health or safety or the environment.

(m) "Handle" means to use, generate, process, produce, package, treat, store, emit, discharge, or dispose of a hazardous material in any fashion.

(n) "Handler" means any business that handles a hazardous material.

(o) "Hazardous material" means any material that, because of its quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard to human health and safety or to the environment if released into the workplace or the environment. "Hazardous materials" include, but are not limited to, hazardous substances, hazardous waste, and any material that a handler or the administering agency has a reasonable basis for believing that it would be injurious to the health and safety of persons or harmful to the environment if released into the workplace or the environment.

(p) "Hazardous substance" means any substance or chemical product for which one of the following applies:

(1) The manufacturer or producer is required to prepare a MSDS for the substance or product pursuant to the Hazardous Substances Information and Training Act (Chapter 2.5 (commencing with Section 6360) of Part 1 of Division 5 of the Labor Code) or pursuant to any applicable federal law or regulation.

(2) The substance is listed as a radioactive material in Appendix B of Chapter 1 of Title 10 of the Code of Federal Regulations, maintained and updated by the Nuclear Regulatory Commission.

(3) The substances listed pursuant to Title 49 of the Code of Federal Regulations.

(4) The materials listed in subdivision (b) of Section 6382 of the Labor Code.

(q) "Hazardous waste" means hazardous waste, as defined by Sections 25115, 25117, and 25316.

(r) "Office" means the Office of Emergency Services.

(s) "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, unless permitted or authorized by a regulatory agency.

(t) "Secretary" means the Secretary for Environmental Protection.

(u) "SIC Code" means the identification number assigned by the Standard Industrial Classification Code to specific types of businesses.

(v) "Threatened release" means a condition creating a substantial probability of harm, when the probability and potential extent of harm make it reasonably necessary to take immediate action to prevent, reduce, or mitigate damages to persons, property, or the environment.

(w) "Trade secret" means trade secrets as defined in subdivision (d) of Section 6254.7 of the Government Code and Section 1060 of the Evidence Code.

(x) "Unified Program Facility" means all contiguous land and structures, other appurtenances, and improvements on the land that are subject to the requirements of paragraphs (4) and (5) of subdivision (c) of Section 25404.

SEC. 207. Section 32111 of the Health and Safety Code is amended to read:

32111. (a) A member of a health care district's medical or allied health professional staff who is an officer of the district shall not be deemed to be "financially interested," for purposes of Section 1090 of the Government Code, in any of the contracts set forth in subdivision (b) made by any district body or board of which the officer is a member if all of the following conditions are satisfied:

(1) The officer abstains from any participation in the making of the contract.

(2) The officer's relationship to the contract is disclosed to the body or board and noted in its official records.

(3) If the requirements of paragraphs (1) and (2) are satisfied, the body or board does both of the following, without any participation by the officer:

(A) Finds that the contract is fair to the district and in its best interest.

(B) Authorizes the contract in good faith.

(b) Subdivision (a) shall apply to the following contracts:

(1) A contract between the district and the officer for the officer to provide professional services to the district's patients, employees, or medical staff members and their respective dependents, provided that similar contracts exist with other staff members and the amounts payable under the contract are no greater than the amounts payable under similar contracts covering the same or similar services.

(2) A contract to provide services to covered persons between the district and any insurance company, health care service plan, employer, or other entity that provides health care coverage, and that also has a contract with the officer to provide professional services to its covered persons.

(3) A contract in which the district and the officer are both parties if other members of the district's medical or allied health professional staff are also parties, directly or through their professional corporations or other practice entities, provided the officer is offered terms no more favorable than those offered any other party who is a member of the district's medical or allied health professional staff.

(c) This section does not permit an otherwise prohibited individual to be a member of the board of directors of a district, including, but not

limited to, individuals described in Section 32110 of this code or in Section 53227 of the Government Code. Nothing in this section shall authorize a contract that would otherwise be prohibited by Section 2400 of the Business and Professions Code.

(d) For purposes of this section, a contract entered into by a professional corporation or other practice entity in which the officer has an interest shall be deemed the same as a contract entered into by the officer directly.

SEC. 208. Section 33320.8 of the Health and Safety Code is amended to read:

33320.8. (a) The territory that is described in subdivision (b) shall not be subject to the requirements of subdivision (b) of Section 33321.5.

(b) All lands not enforceably restricted within the Counties of Riverside and San Bernardino, within the spheres of influence of the Cities of Chino and Ontario as of January 1, 1996, according to the United States Government Township Plat thereof, described as follows:

(1) That portion of Township 2 South, Range 7 West, San Bernardino Meridian, in the County of San Bernardino, State of California, described as follows:

Beginning at the center line intersection of Euclid Avenue and Riverside Drive, said intersection being on the existing city limits of Ontario; thence east along said city limits line and continuing along said line, following all of its various courses to the intersection of Riverside Drive with the San Bernardino County line; thence leaving said city limits line south and southwesterly along said county line to the north line of Section 27, said Township 2 South, Range 7 West; thence west along said north line, being also the center line of Remington Avenue, to the center line of Carpenter Avenue; thence north along said center line to the center line of Merrill Avenue; thence west along said center line to the east line of Grove Avenue; thence north along said east line to the north line of Merrill Avenue; thence west along said north line and its prolongation to the center line of Euclid Avenue; thence north along said center line to the Point of Beginning.

(2) Those portions of Townships 2 and 3 South, Ranges 7 and 8 West, San Bernardino Meridian, in the County of San Bernardino, State of California, described as follows:

Beginning at the intersection of the center line of Merrill Avenue with the east line of Grove Avenue; thence east along said center line of Merrill Avenue to the center line of Carpenter Avenue; thence south along said center line to the north line of Government Lot 1 of Section 27, said Township 2 South, Range 7 West, said point being also on the center line of Remington Avenue; thence east along said center line to the San Bernardino County line; thence southwesterly, southerly and westerly along said county line to the center line of State Highway 71

being also on the existing city limits line of Chino Hills; thence northwesterly along said center line and city limits line to the southwesterly prolongation of the center line of Pine Avenue; thence easterly along said prolongation and center line to the center line of Chino Creek; thence southeasterly along said center line to the west line of Section 6, said Township 3 South, Range 7 West; thence north along said west line and the west line of Section 31, said Township 2 South, Range 7 West, to the center line of Pine Avenue; thence westerly along said center line to the center line of El Prado Road, formerly Central Avenue; thence northwesterly along said center line to the center line of Kimball Avenue, said point being on the existing city limits of Chino; thence east along said city limits line and continuing along said city limits, following all of its various courses to the center line intersection of Kimball Avenue and vacated Campus Avenue; thence leaving said city limits line east along said center line of Kimball Avenue to the center line of Grove Avenue; thence north along said center line to the center line of Remington Avenue, vacated; thence east along said vacated center line to the east line of Grove Avenue; thence north along said last line to the Point of Beginning.

(3) Those portions of Sections 6, 7, 18, 19, 30, and 31, Township 2 South, Range 6 West, San Bernardino Meridian; Sections 23, 24, 25, 26, 27, 34, 35, and 36, Township 2 South, Range 7 West, San Bernardino Meridian; and Sections 2, 3, and 10, Township 3 South, Range 7 West, San Bernardino Meridian, within the unincorporated area of the County of Riverside.

SEC. 209. Section 33492.40 of the Health and Safety Code is amended to read:

33492.40. (a) Notwithstanding Section 33320.1, the requirement that privately owned land within a project area be “predominantly urbanized,” as that term is defined in subdivision (b) of Section 33320.1, shall not apply to privately owned land within a project area, if the privately owned land is adjacent or in proximity to a military facility or installation that is proposed to be closed pursuant to Public Law 100-526 and the inclusion of the privately owned land is found by an entity formed pursuant to subdivision (b) to be necessary for the effective redevelopment of the military facility or installation and the adjacent area.

(b) The legislative bodies for communities having territory within, adjacent to, or in proximity to a military facility or installation described in subdivision (a) may create a separate joint powers agency pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code, which shall have and exclusively exercise powers of an agency in furtherance of the redevelopment of a project area approved by the joint powers agency. The joint powers agency so formed

shall include as one of its members the county in which the project area is located. In addition to the powers of an agency, the joint powers agency so formed shall also act as the legislative body and planning commission for all approvals and actions required by this part of legislative bodies and planning commissions for the adoption and implementation of a redevelopment plan. However, all land use, planning, and development decisions with regard to the land within the project area shall continue to be under the control and jurisdiction of each of the respective local legislative bodies or planning commissions, as applicable.

(c) The territory included within the project and project area may be contiguous or noncontiguous, and any project area may be located in whole or in part within one or more of the communities impacted by the closure of the military facility or installation, and the land to be included within the project area within the community or communities in proximity to the military facility or installation shall be found necessary for the effective redevelopment of the military facility or installation and the adjacent area. A project area shall not include territory outside the jurisdiction of the communities that are parties to the joint powers agency without the consent of the legislative body having jurisdiction over the territory proposed to be included within the project area.

(d) A redevelopment plan for the project area shall contain all of the provisions required by this part. However, if the agency finds, based on substantial evidence on the record, that compliance with the requirements of Sections 33333.2 and 33334.1 would make it impracticable to achieve the policies of this section, the agency may eliminate or modify the requirements of Sections 33333.2 and 33334.1.

(e) The redevelopment plan shall provide for either of the following:

(1) A Low- and Moderate-Income Housing Fund, as required by Section 33334.2.

(2) A deferral for depositing all or part of the 20 percent of taxes allocated to the agency pursuant to Section 33670 in the Low- and Moderate-Income Housing Fund if the agency, after conducting a noticed public hearing, makes, and the executive committee of the Southern California Association of Governments reviews and approves, findings supported by substantial evidence that all of the following apply:

(A) The military facility or installation cannot be acquired or developed by private enterprise without the assistance of the agency.

(B) There are no feasible alternative means of financing the acquisition or development of the military facility or installation other than by utilizing the low- and moderate-income housing portion of the taxes that are allocated to the agency pursuant to subdivision (b) of Section 33670.

(C) Failure of the agency to finance the acquisition or development of the military facility or installation would lead to serious economic hardship and job loss.

(D) The redevelopment plan shall specify the period during which less than 20 percent of the taxes that are allocated to the agency pursuant to subdivision (b) of Section 33670, is to be deposited in the Low- and Moderate-Income Housing Fund. The redevelopment plan shall also contain a repayment plan which specifies a date at which time the agency will have made up the deficit created by the deferral, including repayment of the interest at the highest rate received by the agency on funds it deposits during the period of deferral. The repayment plan shall reduce the deficit in the shortest feasible time consistent with the needs of the agency, as specified in the agency's findings.

(f) The joint powers agency acting as the agency, the legislative body or the planning commission, shall follow all procedures under this part applicable to the adoption and amendment of redevelopment plans, except with respect to Section 33347.5, Sections 33353 to 33353.6, inclusive, Sections 33354.4 to 33354.6, inclusive, and Section 33385.

(g) The agency shall create a fiscal advisory group to consult with each affected taxing agency and to advise and report to the agency in the manner required of a fiscal review committee by Section 33353.5 on any potential fiscal impact upon affected taxing agencies within the project area. The fiscal advisory group shall consist of the financial officer or treasurer of each city and each county that created the joint powers authority.

(h) The agency shall prepare and distribute to each affected taxing agency a report that includes the information required by Section 33328. The agency shall also prepare an analysis of the report required of a fiscal review committee pursuant to subdivision (m) of Section 33352 and an analysis of the report required of the fiscal advisory group pursuant to subdivision (g).

(i) As used in this section, "in proximity to" means within three miles of the boundary of Norton Air Force Base and within eight miles of George Air Force Base.

(j) The Legislature finds and declares that the closure of two or more military facilities or installations within the County of San Bernardino will cause serious economic hardship in that county, including loss of jobs, increased unemployment, deterioration of properties and land utilization and undue disruption of the lives and activities of the people. Therefore, the Legislature finds and declares that to avoid serious economic hardship and accompanying blight, it is necessary to enact this act which shall apply only within the County of San Bernardino. In enacting this act, it is the policy of the Legislature to assist communities within the County of San Bernardino in their attempt to preserve the

military facilities and installations for their continued use as airports and aviation-related purposes.

It is the intent of the Legislature and the commitment of the local authorities to ensure that the existing airfields at both Norton Air Force Base and George Air Force Base are protected, developed, and enhanced as civil aviation public use airports. Therefore, the joint powers authorities authorized by this section should make every reasonable effort to guarantee that these vital airport facilities are retained for general aviation use now and into the future.

(k) Any joint powers agreement entered into pursuant to this section shall provide that the financial needs of each of the parties shall be considered prior to adoption of a redevelopment plan, and may provide that the number of years shall be limited during which bonded indebtedness may be paid using taxes that are allocated to the agency pursuant to subdivision (b) of Section 33670.

(1) A joint powers agency operating within the area of Norton Air Force Base shall appoint a project area citizens committee for the purpose of consultation and advice regarding policy matters that relate to planning and programs affecting the residents, businesses, and educational institutions within the project area, implementation of the redevelopment plan, and the development and implementation of amendments to the redevelopment plan.

(2) The committee shall be comprised of residential owners, residential tenants, business owners, small business owners, business tenants, educational institution representatives, and community groups currently operating, living, or working within the project area. The membership of the Project Area Citizens Committee shall be appointed by the legislative body of the agency and shall be representative, both racially and ethnically, of the people who live and work within the project area.

(3) For the purposes described above, the committee shall meet at least once quarterly or more often to review policy matters and implementation issues as determined necessary by the legislative body.

(l) Amendments to any redevelopment plans adopted pursuant to this section shall not be required to comply with the provisions of Section 33452, provided that notice of the public hearing for any amendment adopted pursuant to Article 12 (commencing with Section 33450) of Chapter 4, is published pursuant to Section 6063 of the Government Code and mailed by regular mail to the governing body of each of the taxing agencies that levies taxes upon any property in the project area designated in the redevelopment plan as proposed to be amended.

SEC. 210. Section 35987 of the Health and Safety Code is amended and renumbered to read:

37986. (a) The council shall meet at the times and in places it deems necessary, but no less than once a quarter. Whenever possible, meetings shall be held in Sacramento in state facilities.

(b) Under no circumstances shall the council permit absentee or proxy voting at any of its proceedings. However, a vote by a designee, as provided in paragraphs (1) to (8), inclusive, of subdivision (a), and paragraphs (1) to (5), inclusive, of subdivision (d), of Section 37983, shall not be construed to be an absentee or proxy vote under this subdivision.

(c) Council members may receive reimbursement for travel costs directly related to council attendance if funding is available.

(d) The council shall apply for grants and may seek contributions from private industry to fund its operations.

(e) The council shall actively solicit and accept funds from industry, foundations, or other sources to promote and fund research and development of dual technologies, to identify alternative applications of military technologies, to initiate market research for identifying possible defense conversion products, to establish worker and business training programs, and to operate pilot projects to evaluate and demonstrate useful approaches. These efforts should be coordinated with the regional technology alliances.

SEC. 211. Section 35988 of the Health and Safety Code is amended and renumbered to read:

37987. In addition to the duties specified in Section 37985, the council shall do all of the following:

(a) At the request of a council member and upon majority vote of the council, the council may review actions or programs by state agencies that may affect military base retention and reuse and offer comments or suggest changes to better integrate these actions or programs into the overall state strategic plan required pursuant to subdivision (a) of Section 37985.

(b) The council shall prepare a study considering strategies for the long-term protection of lands adjacent to military bases from development that would be incompatible with the continuing missions of those bases. The study shall include the effects of local land use encroachment, environmental impact considerations, and population growth issues. The study shall recommend basic criteria to assist local governments in identifying lands where incompatible development may adversely impact the long-term missions of these bases. The study shall also identify potential mechanisms, including recommendations for changes in law at the local or state level, to address these issues. In conducting this study, the council may use the Naval Air Station at Lemoore and Edwards Air Force Base as case studies.

The council shall hold public hearings on this study, including at least one in the vicinity of either Lemoore or Edwards. Notwithstanding Section 7550.5 of the Government Code, the council shall prepare and submit to the Governor and the Legislature by November 30, 2000, a report on this study with any recommendations.

SEC. 212. Section 35989 of the Health and Safety Code is amended and renumbered to read:

37988. The Department of Housing and Community Development with input and assistance from the council, shall establish a Defense Retention Grant Program to grant funds to communities with military bases to assist them in developing a retention strategy. The agency may use grant criteria similar to those for existing defense conversion grant programs as a basis for developing the new grant program. To discourage multiple grant applications for individual defense installations in a region, the criteria shall be drafted to encourage a single application for grant funds to develop, where appropriate, a single, regional defense retention strategy. The structure, requirements, administration, and funding procedures of the grant program shall be submitted to the Legislature for review at least 90 days prior to making the first grant disbursement. The agency may make no grant award without the local community providing at least 50 percent or more in matching funds or in-kind services.

SEC. 213. Section 35990 of the Health and Safety Code is amended and renumbered to read:

37989. The Department of Housing and Community Development shall adopt regulations to implement the programs authorized in this chapter. The agency shall adopt these regulations as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and for purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of the regulations shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of the public peace, health and safety, and general welfare. Notwithstanding subdivision (e) of Section 11346.1 of the Government Code, the regulations shall be repealed within 180 days after their effective date, unless the agency complies with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code as provided in subdivision (e) of Section 11346.1 of the Government Code.

SEC. 214. Section 35991 of the Health and Safety Code is amended and renumbered to read:

37990. This part 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. 215. Section 39011.5 of the Health and Safety Code is amended to read:

39011.5. (a) “Agricultural source of air pollution” or “agricultural source” means a source of air pollution or a group of sources used in the production of crops, or the raising of fowl or animals located on contiguous property under common ownership or control that meets any of the following criteria:

(1) Is a confined animal facility, including, but not limited to, any structure, building, installation, barn, corral, coop, feed storage area, milking parlor, or system for the collection, storage, treatment, and distribution of liquid and solid manure, if domesticated animals, including, but not limited to, cattle, calves, horses, sheep, goats, swine, rabbits, chickens, turkeys, or ducks are corralled, penned, or otherwise caused to remain in restricted areas for commercial agricultural purposes and feeding is by means other than grazing.

(2) Is an internal combustion engine used in the production of crops or the raising of fowl or animals, including, but not limited to, an engine subject to Article 1.5 (commencing with Section 41750) of Chapter 3 of Part 4 except an engine that is used to propel implements of husbandry, as that term is defined in Section 36000 of the Vehicle Code, as that section existed on January 1, 2003. Notwithstanding subdivision (b) of Section 39601, the state board may not revise this definition for the purposes of this section.

(3) Is a Title V source, as that term is defined in Section 39053.5, or is a source that is otherwise subject to regulation by a district pursuant to this division or the federal Clean Air Act (42 U.S.C. Sec. 7401 et seq.).

(b) Any district rule or regulation affecting stationary sources on agricultural operations adopted on or before January 1, 2004, is applicable to an agricultural source.

(c) Nothing in this section limits the authority of a district to regulate a source, including, but not limited to, a stationary source that is an agricultural source, over which it otherwise has jurisdiction pursuant to this division, or pursuant to the federal Clean Air Act (42 U.S.C. Sec. 7401 et seq.) or any rules or regulations adopted pursuant to that act that were in effect on or before January 1, 2003, or to exempt an agricultural source from any requirement otherwise applicable under Section 40724 or 42301.16, based upon a finding by the district in a public hearing that the aggregate emissions from that source do not exceed a de minimis level of more than one ton of particulate matter, nitrogen oxides, or volatile organic compounds per year.

SEC. 216. Section 39614 of the Health and Safety Code is amended to read:

39614. (a) For the purposes of this section, the following terms have the following meanings:

(1) "Cost-effective" or "cost-effectiveness" means either of the following, as applicable:

(A) For the state board, a determination using the standards, formulas, and criteria used by the state board to calculate cost-effectiveness for other regulations.

(B) For a district, a determination using the standards and process described in Section 40922.

(2) "Implementation schedule" means a schedule that specifies dates for final adoption, implementation, and sequencing of control measures pursuant to this section.

(3) "Measures" means any of the following:

(A) Emissions limits, control technologies, or performance standards designed to limit emissions for a source or source category.

(B) Examples of adopted state or local district regulations.

(C) Examples of programs.

(4) "PM 2.5" means particulate matter of 2.5 microns and smaller in size.

(5) "PM 10" means particulate matter of 10 microns and smaller in size.

(6) "Programs" means any state or local program that reduces either of the following:

(A) Smoke from agricultural or wood burning sources.

(B) Diesel emissions.

(b) On or before January 1, 2005, the state board, in consultation with the districts, and after at least one public workshop, shall develop and adopt at a public meeting a list of the most readily available, feasible, and cost-effective proposed control measures, based on rules, regulations, and programs existing in California as of January 1, 2004, that could be employed by the state board and the districts to reduce PM 2.5 and PM 10 and make progress toward attainment of state and federal PM 2.5 and PM 10 standards. The list shall include measures to reduce emissions from new and existing stationary, mobile, and area sources, and shall indicate whether those measures apply to new, modified, or existing sources. In developing the list, the state board shall take into account information it determines to be appropriate and relevant from emissions inventories, air monitoring data, and other scientific studies, including, but not limited to, information associated with compliance with the federal ambient air standards for particulate matter. The list shall include control measures for all of the following emission source categories:

(1) Stationary combustion sources.

(2) Woodstoves and fireplaces.

(3) Commercial grilling operations.

(4) Agricultural burning.

(5) Construction and grading operations.

(6) Diesel-powered engines used in stationary and mobile applications, including, but not limited to, control measures that do any of the following:

(A) Reduce heavy-duty vehicle idling.

(B) Require the use of ultra low-sulfur diesel fuel.

(C) Encourage, and require to the extent authorized by law, fleet turnover or the pull-ahead of new technology.

(D) Use public funds, including, but not limited to, Congestion Mitigation and Air Quality Improvement Program funds to upgrade, retrofit, or replace heavy-duty engines with less polluting alternatives.

(E) Promote increased purchase and use by government agencies of low-emission heavy-duty vehicles and equipment.

(c) The state board shall specify in the list adopted pursuant to subdivision (a) whether a proposed control measure is intended to reduce emissions of PM 2.5, PM 10, or both, and whether it is a proposed control measure for adoption by the state board or by a district. The state board and the districts shall adopt and implement only those control measures within their respective jurisdictions in accordance with applicable provisions of state law.

(d) (1) Not later than July 31, 2005, after at least one public workshop and a noticed public hearing, and in a manner otherwise in accordance with this section, the state board shall adopt an implementation schedule for the state measures on the list developed pursuant to subdivision (b) and each district shall adopt an implementation schedule for the most cost-effective local measures from the list for that district after prioritizing the measures based on the factors identified in subparagraph (A) of paragraph (2). The state board and each district, in carrying out the requirements of this section, shall adopt and implement control measures to reduce PM 2.5 and PM 10 from stationary, area, and mobile sources, and to make progress toward attainment of state and federal PM 2.5 and PM 10 standards.

(2) In developing an implementation schedule pursuant to this subdivision, the state board and each district shall do all of the following:

(A) Prioritize adoption and implementation of proposed control measures based on the effect individual control measures will have on public health, air quality, and emission reductions, and on the cost-effectiveness of each control measure.

(B) Strive to integrate the scheduling of control measures with the federal planning process for attainment of the federal ambient air quality standards for particulate matter in an efficient manner, to the extent that integration does not delay the adoption of control measures.

(3) An implementation schedule adopted by a district pursuant to this subdivision may not include a control measure that meets any of the following criteria:

(A) Is substantially similar to a control measure already adopted by the district, as determined by the district.

(B) Is substantially similar to a control measure scheduled for adoption by the district within two years of the adoption of the implementation schedule, as determined by the district.

(C) The district has determined there is a readily available, feasible, and cost-effective alternative control measure that will achieve an equivalent or greater emission reduction.

(D) Is intended to reduce emissions of a precursor to PM 2.5 or PM 10, if the district has adopted and implemented the measure or scheduled the measure for adoption within two years of the adoption of the implementation schedule as part of the district's ozone attainment plan pursuant to subdivision (a) or (b) of Section 40914.

(4) If a district determines that a readily available, feasible, and cost-effective alternative control measure exists as described in subparagraph (C) of paragraph (3), the district shall adopt that measure.

(e) Nothing in this section requires a district to adopt a control measure to further regulate emissions from any source that operates under, or requires a district to modify, either of the following programs:

(1) A market-based incentive program that complies with Section 39616.

(2) An interchangeable emission reduction credit program that is consistent with the methodology adopted by the state board pursuant to Section 39607.5.

(f) Nothing in this section is intended to alter or affect any of the following:

(1) The authority of the state board or a district to adopt a control measure for PM 2.5 and PM 10 pursuant to this division.

(2) The authority of the state board or a district over diesel-powered engines established pursuant to this division.

(3) The authority of a district to modify either of the programs described in paragraph (1) or (2) of subdivision (e).

(4) The authority of a district to adopt measures necessary to attain state or federal air quality standards.

(g) In identifying control measures for woodstoves and fireplaces pursuant to paragraph (2) of subdivision (b), the state board shall include a consideration of rules and regulations encouraging the use of wood fuel appliances that meet the standards established in Subpart AAA of Part 60 of Title 40 of the Code of Federal Regulations.

(h) In adopting the list and implementation schedule pursuant to this section, the state board is not subject to the rulemaking provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(i) Not later than January 1, 2009, the state board shall prepare a report, and make available to the public, on the actions taken by the state board and local districts to comply with this section. The report shall include, but is not limited to, all of the following:

- (1) Adopted and proposed rules.
- (2) Regulations and programs.
- (3) Air quality and public health impacts of state and district actions taken pursuant to this section.
- (4) Cost-effectiveness of rules, regulations, and programs implemented pursuant to this section.
- (5) Recommendations for further actions to assist in achieving state air quality standards for particulate matter.

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

SEC. 217. Section 39661 of the Health and Safety Code is amended to read:

39661. (a) (1) Upon receipt of the evaluation and recommendations prepared pursuant to Section 39660, the state board, in consultation with, and with the participation of, the office, shall prepare a report in a form that may serve as the basis for regulatory action regarding a particular substance pursuant to subdivisions (b) and (c) of Section 39662.

(2) The report shall include and be developed in consideration of the evaluation and recommendations of the office.

(b) The report, together with the scientific data on which the report is based, shall, with the exception of trade secrets, be made available to the public and shall be formally reviewed by the scientific review panel established pursuant to Section 39670. The panel shall review the scientific procedures and methods used to support the data, the data itself, and the conclusions and assessments on which the report is based. Any person may submit any information for consideration by the panel, which may, at its discretion, receive oral testimony. The panel shall submit its written findings to the state board within 45 days after receiving the report. The panel may, however, petition the state board for an extension of the deadline, which may not exceed 15 working days.

(c) If the scientific review panel determines that the health effects report is not based upon sound scientific knowledge, methods, or practices, the report shall be returned to the state board, and the state board, in consultation with, and with the participation of, the office, shall prepare revisions to the report, which shall be resubmitted within 30 days following receipt of the panel's determination to the scientific review panel, which shall review the report in conformance with

subdivision (b) prior to a formal proposal by the state board pursuant to Section 39662.

SEC. 218. Section 40500.5 of the Health and Safety Code is amended to read:

40500.5. (a) Notwithstanding Section 40500, the south coast district board may prohibit the granting of variances by the hearing board from the provisions of a market-based incentive program adopted pursuant to Section 39616 that establish procedures for assessing emissions during periods when monitoring or reporting systems are not operating as required.

(b) The south coast district board may prohibit the granting of variances by the hearing board from the minimum federal requirements for new source performance standards, or for national emissions standards for hazardous air pollutants, under Sections 7411 and 7412 of Title 42 of the United States Code, unless the district rule at issue is more stringent than the federal requirement. The south coast district board shall not prohibit the granting of a variance if the petitioner for the variance has obtained a waiver from the Environmental Protection Agency of the federal requirement at issue and the variance would be consistent with the waiver.

SEC. 219. Section 40724.6 of the Health and Safety Code is amended to read:

40724.6. (a) On or before July 1, 2005, the state board shall review all available scientific information, including, but not limited to, emissions factors for confined animal facilities, and the effect of those facilities on air quality in the basin and other relevant scientific information, and develop a definition for the source category of a "large confined animal facility" for the purposes of this section. In developing that definition, the state board shall consider the emissions of air contaminants from those sources as they may affect the attainment and maintenance of ambient air quality standards.

(b) Not later than July 1, 2006, each district that is designated as a federal nonattainment area for ozone as of January 1, 2004, shall adopt, implement, and submit for inclusion in the state implementation plan, a rule or regulation that requires the owner or operator of a large confined animal facility, as defined by the state board pursuant to subdivision (a), to obtain a permit from the district to reduce, to the extent feasible, emissions of air contaminants from the facility.

(c) A district may require a permit for a large confined animal facility with actual emissions that are less than one-half of any applicable emissions threshold for a major source in the district for any air contaminant, including, but not limited to, fugitive emissions in a manner similar to other source categories, if prior to imposing that

requirement the district makes both of the following determinations in a public hearing:

(1) A permit is necessary to impose or enforce reductions in emissions of air pollutants that the district show cause or contribute to a violation of a state or federal ambient air quality standard.

(2) The requirement for a source or category of sources to obtain a permit would not impose a burden on those sources that is significantly more burdensome than permits required for other similar sources of air pollution.

(d) The rule or regulation adopted pursuant to subdivision (b) shall do all of the following:

(1) Require the owner or operator of each large confined animal facility to submit an application for a permit within six months from the date the rule or regulation is adopted by the district that includes both of the following:

(A) The information that the district determines is necessary to prepare an emissions inventory of all regulated air pollutants emitted from the operation, including, but not limited to, precursor and fugitive emissions, using emission factors approved by the state board in a public hearing.

(B) An emissions mitigation plan that demonstrates that the facility will use reasonably available control technology in moderate and serious nonattainment areas, and best available retrofit control technology in severe and extreme nonattainment areas, to reduce emissions of pollutants that contribute to the nonattainment of any ambient air quality standard, and that are within the district's regulatory authority.

(2) Require the district to act upon an application for permit submitted pursuant to paragraph (1) within six months of a completed application, as determined by the district.

(3) Require the owner or operator to implement the plan contained in the permit approved by the district, and establish a reasonable period, of not more than three years, after which each permit shall be reviewed by the district and updated to reflect changes in the operation or the feasibility of mitigation measures. The updates required by this paragraph are not required to be submitted for inclusion into the state implementation plan.

(4) Establish a reasonable compliance schedule for facilities to implement control measures within one year of the date on which the permit is approved by the district, and shall provide for 30 days' public notice and comment on any draft permit.

(e) Prior to adopting a rule or regulation pursuant to subdivision (b), a district shall, to the extent data are available, perform an assessment of the impact of the rule or regulation. The district shall consider the impacts of the rule or regulation in a public hearing, and make a good

faith effort to minimize any adverse impacts. The assessment shall include all of the following:

(1) The category of sources affected, including, but not limited to, the approximate number of affected sources, and the size of those sources.

(2) The nature and quantity of emissions from the category, and the significance of those emissions in adversely affecting public health and the environment and in causing or contributing to the violation of a state or federal ambient air quality standard.

(3) The emission reduction potential.

(4) The impact on employment in, and the economy of, the region affected.

(5) The range of probable costs to affected sources and businesses.

(6) The availability and cost-effectiveness of alternatives.

(7) The technical and practical feasibility.

(8) Any additional information on impacts that is submitted to the district board for consideration.

(f) Nothing in this section shall delay or otherwise affect any action taken by a district to reduce emissions of air contaminants from agricultural sources, or any other requirements imposed on a district or a source of air pollution pursuant to the federal Clean Air Act (42 U.S.C. Sec. 7401 et seq.).

(g) In adopting a rule or regulation pursuant to this section, a district shall comply with all applicable requirements of this division, including, but not limited to, the requirements established pursuant to Sections 40703, 40727, and 40728.5.

(h) A permitholder may appeal any district determination or decision required by this section pursuant to Section 42302.1, in addition to any other applicable remedy provided by law.

(i) Nothing in this section authorizes a district to adopt a rule or regulation that is duplicative of a rule or regulation adopted pursuant to Sections 40724 and 40724.5.

(j) Nothing in this section limits the authority of a district to regulate a source, including, but not limited to, a stationary source that is an agricultural source over which it otherwise has jurisdiction pursuant to this division or the federal Clean Air Act (42 U.S.C. Sec. 7401 et seq.) or any rules or regulations adopted pursuant to that act. Nothing in this section shall delay or otherwise affect any action taken by a district to reduce emissions of air contaminants from agricultural sources, or any other requirements imposed upon a district or a source of air pollution pursuant to the federal Clean Air Act. This section may not be interpreted to delay or otherwise affect adoption, implementation, or enforcement of any measure that was adopted, or included in a rulemaking calendar or air quality implementation plan that was adopted, by the district prior to January 1, 2004.

SEC. 220. Section 41514.1 of the Health and Safety Code is amended to read:

41514.1. (a) A health facility shall use the most recent standard set by the Joint Commission on the Accreditation of Healthcare Organizations for testing diesel backup generators. During each week that a diesel backup generator is not tested, the generator shall be started at least once, with or without load, for a period of time that allows the coolant temperature to stabilize.

(b) A health facility shall submit all data collected under this section to the State Department of Health Services when requested by the department.

(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.

(d) For the purposes of this section, "health facility" has the same meaning as Section 1250, but includes only those facilities described in subdivision (a), (b), (c), (d), (f), (g), or (k) of that section.

(e) Nothing in this section affects the authority of the State Air Resources Board or an air quality management district or air pollution control district to regulate diesel backup generators owned by a health facility.

SEC. 221. Section 41855.6 of the Health and Safety Code is amended to read:

41855.6. The district may postpone the commencement dates set forth in subdivision (a) of Section 41855.5 for any category of agricultural waste or crop described if all of the following applies:

(a) The district determines that there is no economically feasible alternative means of eliminating the waste.

(b) The district determines that there is no long-term federal or state funding commitment for the continued operation of biomass facilities in the San Joaquin Valley or development of alternatives to burning.

(c) The district determines that the continued issuance of permits for that specific category or crop will not cause, or substantially contribute to, a violation of an applicable federal ambient air quality standard.

(d) The state board concurs with the district's determinations pursuant to this section.

SEC. 222. Section 50517.9 of the Health and Safety Code is amended to read:

50517.9. (a) In enacting this section, it is the intent of the Legislature to provide disaster assistance for farmworkers displaced by the 1997 floods in the most expeditious and fiscally sound manner possible. It is the intent of the Legislature that the Department of Housing and Community Development administer this section in accordance with those goals.

(b) In counties in which a disaster has been declared by the Governor pursuant to Section 8625 of the Government Code, and for a period of 12 months after the declaration, the department may award funds for the purposes of this section, subject to the following terms and conditions:

(1) Loans may be made to local public entities, nonprofit corporations, and private property owners to repair, rehabilitate, or replace housing previously used exclusively by migrant farmworker households or unaccompanied migrant farmworker adults, which will be used in the future for those purposes. Loan funds may be used to acquire or lease "manufactured structures," which, for the purposes of this section, means structures subject to Part 2 (commencing with Section 18000) of Division 13. Private property owners shall be eligible for loans only to the extent that other federal and state resources, private insurance proceeds, or private institutional lending sources are not available in a timely manner or do not provide the coverage needed to rehabilitate or reconstruct the housing without increasing the rent above that charged for the units prior to the disaster.

(2) The department may enter into contracts directly with nonprofit corporations, local public entities, or private property owners to carry out the activities authorized by this section.

(3) Loans made under this section shall be secured by, and subject to, security instruments approved by the department, including, but not limited to, real property leases or liens, regulatory agreements, and liens on manufactured structures. The department shall establish loan terms and conditions with consideration to the financial feasibility and prudent operation of the housing units financed. In no event shall the loans require interest at a rate higher than 3-percent simple interest or have a term longer than the useful life of the housing units. Repayments may be deferred for the first five years of the loan term, if the department determines that it is necessary for fiscal integrity or to prevent foreclosure.

(4) In making any loan, the department shall require that the borrower meet all of the following conditions:

(A) The borrower shall be capable of providing occupancy in decent, safe, and sanitary housing that meets all of the requirements of law within six months after the award of funds.

(B) The borrower shall demonstrate the financial feasibility of the project.

(C) Prior to disbursement of funds, the borrower shall identify the property on which the housing will be repaired, rehabilitated, or replaced, and provide information satisfactory to the department related to the costs and sources of funding necessary to complete the repairs, rehabilitation, or replacement. All costs shall be reasonable, considering the necessity of expeditious rehabilitation or replacement.

(5) Priority for use of the funds shall be given to borrowers who will provide housing at the earliest date.

(6) All units assisted under this section shall remain affordable to low- and very low income households for the life of the project. For the 1997–98 growing season, farmworkers who previously occupied the damaged or destroyed housing shall have first priority to occupy any unit assisted under this section.

(7) If units assisted under this section are built or rehabilitated in the same natural disaster zone as the units damaged or destroyed by the disaster, the borrower shall maintain disaster insurance on the units for the useful life of the units. For purposes of this section, “disaster insurance” means fire, earthquake, flood, or other insurance against the natural disaster that damaged or destroyed the housing units.

(8) To the extent that any housing unit that was damaged or destroyed is reconstructed under this section with substantially the same number of units, it shall be deemed to be “existing housing” for the purposes of subdivision (d) of Section 37001.5.

(9) The department may waive any requirements of Section 50517.5 and any regulations promulgated thereunder that are inconsistent with prompt and effective implementation of the program described in this section. In addition, any rule, policy, or standard of general application employed by the department in implementing the provision of this section shall not be subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 12 of Division 3 of Title 2 of the Government Code. Awards of funds made pursuant to this section shall not be subjected to review or approval by the Local Assistance Loan and Grant Committee of the department operating pursuant to Subchapter 1 (commencing with Section 6900) of Chapter 6.5 of Title 25 of the California Code of Regulations.

SEC. 223. Section 51615 of the Health and Safety Code is amended to read:

51615. (a) Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of, and Article 9 (commencing with Section 11120) of Chapter 1 of, Chapter 3.5 (commencing with Section 11340) of, Chapter 4 (commencing with Section 11370) of, and Chapter 5 (commencing with Section 11500) of, Part 1 of Division 3 of Title 2 of, the Government Code shall apply to the agency with respect to the administration of the insurance fund.

(b) Notwithstanding subdivision (a), the provisions described in that subdivision shall not apply to any of the following:

(1) The agency’s activities and records relating to establishing rates and premiums.

(2) Bids or contracts for insurance, coinsurance, and reinsurance.

(3) Other matters necessary to maintain the competitiveness of the agency in the mortgage insurance industry, including, but not limited to, the development of financial products.

SEC. 224. Section 53533 of the Health and Safety Code is amended to read:

53533. (a) Moneys 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 Chapter 5 (commencing with Section 50600) of Part 2.

(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 Section 50843.

(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.

(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 supportive housing projects under the Multifamily Housing Program authorized by Chapter 6.7 (commencing with Section 50675) of Part 2, to serve individuals and households moving from emergency shelters or transitional housing or those at risk of homelessness.

(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. If, after July 1, 2003, funds remain after the approval of all feasible applications, the department shall be deemed an eligible recipient for the purposes of reconstructing migrant centers operated through the Office of Migrant Services pursuant to Chapter 8.5 (commencing with Section 50710) that would otherwise be scheduled for closure due to health or safety considerations or are in need of significant repairs to ensure the health and safety of the residents. Of the dollars allocated by this section, the department shall receive four million one hundred thousand dollars (\$4,100,000) for these purposes.

(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 Chapter 4.5 (commencing with Section 50860) of Part 1.

(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.

(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). The agency may transfer these moneys as often as quarterly in amounts that shall not exceed the dollar amount of new insurance written by the agency during the preceding quarter for loans for the purchase of homes made to owner-occupant borrowers with incomes not exceeding 120 percent of the area median income, divided by the risk-to-capital ratio required for the maintenance of satisfactory credit ratings from nationally recognized credit rating services.

(C) (i) Twelve million five hundred thousand dollars (\$12,500,000) shall be reserved for downpayment assistance to low-income first-time home buyers who, as documented to the agency by a nonprofit organization certified and funded to provide home ownership counseling by a federally funded national nonprofit corporation, are purchasing a residence in a community revitalization area targeted by the nonprofit organization and who has received home ownership counseling from the nonprofit organization. Community revitalization areas shall be limited to targeted neighborhoods identified by qualified nonprofit organizations as those neighborhoods in need of economic stimulation, renovation, and rehabilitation through efforts that include increased home ownership opportunities for low-income families.

(ii) Effective January 1, 2004, 50 percent of the funds available pursuant to clause (i) shall be available for downpayment assistance in an amount not to exceed 6 percent of the home sales price.

(iii) After 12 months of availability, if more than 50 percent of the funds set aside pursuant to clause (ii) have been encumbered, the agency shall discontinue that program and make all remaining funds available for downpayment assistance pursuant to clause (i). If, however, less than 50 percent of the funds allocated pursuant to clause (ii) are encumbered after that 12-month period, the agency may, at its sole discretion, either make all remaining funds provided pursuant to clause (i) available for the purpose of clause (ii), or may continue to implement clause (ii) until

all of the funds allocated for that purpose as of January 1, 2004, have been encumbered.

(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. 225. Section 101625 of the Health and Safety Code is amended to read:

101625. The authority is hereby declared to be a body corporate and politic and shall have power:

- (a) To have perpetual succession.
- (b) To sue and be sued in the name of the authority in all actions and proceedings in all courts and tribunals of competent jurisdiction.
- (c) To adopt a seal and alter it at pleasure.
- (d) To take by grant, purchase, gift, devise, or lease, to hold, use, and enjoy, and to lease, convey, or dispose of, real and personal property of

every kind, within or without the boundaries of the authority, necessary or convenient to the full exercise of its powers. The board may lease, mortgage, sell, or otherwise dispose of any real or personal property within or without the boundaries of the authority necessary to the full or convenient exercise of its powers.

(e) To make and enter into contracts with any public agency or person for the purposes of this chapter.

(f) To appoint and employ an executive director and other employees as may be necessary, including legal counsel, establish their compensation, and define their powers and duties. The board shall prescribe the amounts and forms of fidelity bond of its officers and employees. The cost of these bonds shall be borne by the authority. The employees and each of them shall serve at the pleasure of the board. The authority may also contract for the services of an independent contractor.

(g) To incur indebtedness.

(h) To purchase supplies, equipment, materials, property, or services.

(i) To establish policies relating to its purposes.

(j) To acquire or contract to acquire, rights-of-way, easements, privileges, or property of every kind within or without the boundaries of the authority, and construct, equip, maintain, and operate any and all works or improvements within or without the boundaries of the authority necessary, convenient, or proper to carry out any of the provisions, objects, or purposes of this chapter, and to complete, extend, add to, repair, or otherwise improve any works or improvements acquired by it.

(k) To make contracts and enter into stipulations of any nature upon the terms and conditions that the board finds are for the best interest of the authority for the full exercise of the powers granted in this chapter.

(l) To accept gifts, contributions, grants, or loans from any public agency or person for the purposes of this chapter.

The authority may do any and all things necessary in order to avail itself of gifts, contributions, grants, or loans, and cooperate under any federal or state legislation in effect on January 25, 1982, or enacted after that date.

(m) To invest any surplus money in its treasury in the same manner as the County of Monterey and according to the same laws.

(n) To negotiate with service providers rates, charges, fees, and rents, and to establish classifications of health care systems operated by the authority.

(o) To develop and implement health care delivery systems to promote quality care and cost efficiency.

(p) To provide health care delivery systems for any or all of the following:

(1) For all persons who are eligible to receive medical benefits under the Medi-Cal Act (Chapter 7 (commencing with Section 14000) of Part

3 of Division 9 of the Welfare and Institutions Code) in Monterey County through waiver, pilot project, or otherwise.

(2) For all persons in Monterey County who are eligible to receive medical benefits under both Titles XVIII and XIX of the Social Security Act.

(3) For all persons from Monterey County or any city in that county who are eligible to receive health care under Parts 4.5 (commencing with Section 16700) and 5 (commencing with Section 17000) of Division 9 of the Welfare and Institutions Code.

(q) To insure against any accident or destruction of its health care system or any part thereof. It may insure against loss of revenues from any cause. The district may also provide insurance as provided in Part 6 (commencing with Section 989) of Division 3.6 of Title 1 of the Government Code.

(r) To exercise powers that are expressly granted and powers that are reasonably implied from those express powers and necessary to carry out the purposes of this chapter.

(s) To do any and all things necessary to carry out the purposes of former Division 1 (commencing with Section 1).

SEC. 226. Section 104558 of the Health and Safety Code is amended to read:

104558. (a) In order to secure and protect the moneys to be received as a result of the Master Settlement Agreement, as defined in subdivision (e) of Section 104556, in civil litigation under any legal theory involving a signatory, successor of a signatory, or an affiliate of a signatory to the Master Settlement Agreement that has not been brought to trial as of the effective date of this section, the amount of the required undertaking, bond, or equivalent surety to be furnished during the pendency of an appeal or any discretionary appellate review of any judgment granting legal, equitable, or any other form of relief in order to stay the execution thereon during the entire course of the appellate review shall be set in accordance with applicable laws and rules of the court, except that the total undertaking, bond, or equivalent surety that is required per case, whether individual, aggregate, or otherwise, of all appellants, collectively, may not exceed 100 percent of the verdict or one hundred fifty million dollars (\$150,000,000) whichever is less, regardless of the value of the judgment.

(b) Nothing in this section or any other provision of law shall be construed to eliminate the discretion of the court, for good cause shown, to set the undertaking or bond on appeal in an amount lower than that otherwise established by law.

(c) If the appellee proves by a preponderance of the evidence that a party bringing an appeal or seeking a stay of execution of judgment and for whom the undertaking has been limited under this section, is

intentionally dissipating or diverting assets outside the ordinary course of its business for the purpose of avoiding ultimate payment of the judgment, any limitation under subdivision (a) may be rescinded and the court may order any actions necessary to prevent dissipation or diversion of the assets.

SEC. 227. Section 106010 of the Health and Safety Code is amended to read:

106010. (a) The clinical centers described in Section 106000 shall include the Stroke and Hypertension Center, the Obesity and Nutrition Center, and the HIV/AIDS Center.

(b) The centers shall target and address illnesses that are related biologically and clinically and are characterized by outcomes that are disparate between minority populations and that of the overall community.

(c) The centers shall initially focus on health promotion, disease prevention, health risk assessment, and health screening services in connection with target medical conditions in minority populations that are experiencing disparate outcomes in relation to the overall community in regard to target conditions. However, over time, each center shall develop a portfolio of projects that also address these target conditions in all racial, ethnic, and cultural groups.

SEC. 228. Section 115005 of the Health and Safety Code is amended to read:

115005. In addition to the requirements imposed by Section 115000, the department shall develop an overall plan, in consultation with other state, regional, and federal agencies, for the management, treatment, and disposal of low-level radioactive waste generated within California. The plan shall contain, at a minimum, all of the following elements:

(a) Specific contingency plans to address the needs of the state for the short-term storage of low-level radioactive waste in the event of a precipitous closure of existing out-of-state commercial waste disposal facilities and to evaluate feasible alternatives for meeting the state's needs. This element of the plan shall include, but is not limited to, all of the following factors:

(1) The amount and kinds of low-level radioactive waste generated by California licensees and current disposal locations.

(2) The size and nature of an interim storage facility required to meet California's interim low-level radioactive waste disposal needs.

(3) The cost of developing and operating an interim storage site by the department or contracting organizations.

(4) Criteria for the siting of an interim storage site, including, but not limited to, all of the following:

(A) Proximity to population.

- (B) Geologic stability.
- (C) Proximity to ground or surface water.
- (D) Availability of transportation.
- (E) General public health and economic considerations.

This element of the plan shall be completed and submitted to the appropriate committees of each house of the Legislature on or before December 31, 1982.

(b) A classification scheme for the separation of low-level waste that will facilitate the management, treatment, storage, and ultimate disposal of the waste. This classification scheme shall consider the matters as possible de minimis radiation levels for specific radionuclides, the quantity and specific activity of the material, its persistence, toxicity, chemical form, reactivity, and the principal radionuclides present. The classification scheme shall also include the specifications necessary to determine which classes of waste may or may not be accepted for storage in an interim storage facility established pursuant to Section 115045, that may or may not be held by the licensee for decay to specified residual radioactivity levels and that require long-term isolation from the environment, as the case may be, for the protection of the public health and safety. The department may require as a condition of licensure the submission of information necessary to determine the total amount of waste produced in each class of the classification scheme. The department may, by regulation, adopt the classification scheme establishing which wastes may or may not be accepted at an interim storage facility or at a treatment or disposal facility.

This element of the plan shall be completed and submitted to the appropriate committees of each house of the Legislature on or before December 31, 1982.

(c) Siting criteria for potential land burial disposal sites and treatment facilities within the state. In establishing these criteria, the department shall consider the following factors, including, but not limited to:

- (1) The present and projected future uses of land, water, and natural resources.
- (2) The proximity of the site to major population centers.
- (3) The presence of active earthquake faults.
- (4) Geologic and other natural barriers that protect against surface or groundwater contamination.
- (5) The effectiveness of engineered barriers, waste treatment, and waste packaging in ensuring isolation of the waste from the environment.
- (6) Transportation of radioactive materials as it relates to public health and safety.
- (7) The relative economic impact of location and operation of treatment or disposal facilities.

This element of the plan shall be completed and submitted to the appropriate committees of each house of the Legislature on or before December 31, 1982.

(d) A plan of action to minimize the environmental, occupational, and public health impact of low-level radioactive waste and to protect the public health and safety by encouraging a reduction in the amount and toxicity of waste produced. This activity shall include conducting or having studies conducted that evaluate the technical and economic feasibility of (1) reducing the volume, reactivity, and chemical and radioactive hazard of the waste, (2) cleaning contaminated, nonactivated metals and other materials to permit their recycle and reuse, and (3) substituting nonradioactive or short-lived radioactive materials for those radionuclides that require long-term isolation from the environment. The results of these studies, along with the departmental recommendations for their implementation, shall be reported by the department to the appropriate committees of the Legislature on or before December 31, 1983.

(e) Within six months after September 28, 1983, the Governor shall direct the appropriate state agency or agencies, as determined by the Governor, to conduct and complete a study that identifies those regions of the state within which it is likely the criteria developed pursuant to subdivision (c) could be met. The state agency or agencies, so directed, may also request, when appropriate, the assistance of state or federal agencies or private organizations.

SEC. 229. Section 121010 of the Health and Safety Code is amended to read:

121010. Notwithstanding Section 120975 or 120980, the results of a blood test to detect antibodies to the probable causative agent of AIDS may be disclosed to any of the following persons without written authorization of the subject of the test:

(a) To the subject of the test or the subject's legal representative, conservator, or to any person authorized to consent to the test pursuant to subdivision (b) of Section 120990.

(b) To a test subject's provider of health care, as defined in subdivision (d) of Section 56.05 of the Civil Code, except that for purposes of this section, "provider of health care" does not include a health care service plan regulated pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2.

(c) To an agent or employee of the test subject's provider of health care who provides direct patient care and treatment.

(d) To a provider of health care who procures, processes, distributes, or uses a human body part donated pursuant to the Uniform Anatomical Gift Act (Chapter 3.5 (commencing with Section 7150) of Part 1 of Division 7).

(e) (1) To the designated officer of an emergency response employee, and from that designated officer to an emergency response employee regarding possible exposure to HIV or AIDS, but only to the extent necessary to comply with provisions of the Ryan White Comprehensive AIDS Resources Emergency Act of 1990 (P.L. 101-381; 42 U.S.C. Sec. 201).

(2) For purposes of this subdivision, “designated officer” and “emergency response employee” have the same meaning as these terms are used in the Ryan White Comprehensive AIDS Resources Emergency Act of 1990 (P.L. 101-381; 42 U.S.C. Sec. 201).

(3) The designated officer shall be subject to the confidentiality requirements specified in Section 120980, and may be personally liable for unauthorized release of any identifying information about the HIV results. Further, the designated officer shall inform the exposed emergency response employee that the employee is also subject to the confidentiality requirements specified in Section 120980, and may be personally liable for unauthorized release of any identifying information about the HIV test results.

SEC. 230. The heading of Chapter 8 (commencing with Section 127670) of Part 2 of Division 107 of the Health and Safety Code is amended to read:

CHAPTER 8. CALIFORNIA HEALTH CARE QUALITY IMPROVEMENT AND
COST CONTAINMENT COMMISSION

SEC. 231. Section 127670 of the Health and Safety Code is amended to read:

127670. The Legislature finds and declares the following:

(a) California’s health care system needs to be reformed to provide high quality accessible, affordable, and equitable care and treatment.

(b) Too many Californians are unable to obtain affordable, high quality health care.

(c) The rising costs associated with health care are driven by numerous factors, including, but not limited to, the following:

(1) Prescription drug spending, including costs of research and development and marketing and increased drug utilization.

(2) Hospital rates.

(3) Health insurance premium rates.

(4) Provider rates.

(5) Health system inefficiencies.

(6) Fraud and abuse in the health care system.

(7) Technology development and utilization.

(8) Emergency room overutilization.

(9) Inequitable allocation of services and treatment to different segments of the population.

(10) Cost shifting, which occurs when the costs of providing uncompensated health care to uninsured individuals is shifted to those with health insurance, driving health care prices and insurance premiums higher.

(d) Health care cost containment is an important part of enabling the health care coverage system to provide high quality care in a manner that improves patient outcomes.

(e) Evidence-based medicine may improve cost-effectiveness and care to patients by using scientific evidence to determine clinical practice, drug therapy, and other measures that improve the quality of care in a cost-effective manner while taking into account the special needs of individual patients. To improve quality as well as cost-effectiveness, evidence-based medicine should take into account the special needs of persons with disabilities as well as the racial, ethnic, and gender disparities in health research and the provision of health care.

(f) Chronic diseases, such as heart disease, stroke, asthma, cancer, and diabetes, are among the most prevalent, costly, and preventable of all health problems. Seventy-eight percent of health care costs can be attributed to the treatment of chronic conditions. "Disease management" provides a strategy to improve patient health outcomes and limit health care spending by identifying and monitoring high-risk populations, helping patients and providers better adhere to proven interventions, engaging patients in their own care management, and establishing more coordinated care interventions and followup systems to prevent unnecessary and expensive health complications. These disease management strategies should be tailored to fit the needs of each patient. Disease management is most effective when it takes into account racial, ethnic, and gender disparities in health research and the provision of health care.

(g) Without reform, California's health care system may fail to deliver the affordable quality care that all Californians deserve.

(h) It is the intent of the Legislature to make available valid performance information to encourage hospitals and physicians to provide care that is safe, medically effective, patient-centered, timely, efficient, and equitable. It is also the intent of the Legislature to strengthen the ability of the Office of Statewide Health Planning and Development to put hospital performance information into the hands of consumers, purchasers, and providers.

(i) It is the intent of the Legislature to encourage health care service plans, health insurers, and providers to develop innovative approaches, services, and programs that may have the potential to deliver health care that is both cost-effective and responsive to the needs of enrollees.

SEC. 232. Section 127671 of the Health and Safety Code is amended to read:

127671. (a) The Governor shall convene the California Health Care Quality Improvement and Cost Containment Commission, hereinafter referred to as “the commission,” to research and recommend appropriate and timely strategies for promoting high quality care and containing health care costs.

(b) The commission shall be composed of 27 members who are knowledgeable about the health care system and health care spending.

(c) The Governor shall appoint 17 members of the commission, as follows:

(1) Three representatives of California’s business community, including at least one representative from a small business.

(2) Two representatives from organized labor, one of whom represents health care workers.

(3) Two representatives of consumers.

(4) Two health care practitioners, including at least one physician.

(5) One representative of the disabilities community.

(6) One hospital industry representative.

(7) One pharmaceutical industry representative.

(8) Two representatives of the health insurance industry, one with expertise in managed health care delivery systems and one with expertise in health insurance underwriting and rating.

(9) One representative of academic or health care policy research institutions.

(10) One health care economist.

(11) One expert in disease management techniques and wellness programs.

(d) The Senate Committee on Rules shall appoint four members, with two members from the majority party and two from the minority party.

(e) The Speaker of the Assembly shall appoint four members, of which two members shall be the Chair and Vice Chair of the Assembly Committee on Health.

(f) The Secretary of the Health and Human Services Agency and the Director of the Department of Managed Health Care shall serve as members of the commission.

(g) The Governor shall appoint the chairperson of the commission.

(h) The commission shall, on or before January 1, 2005, issue a report to the Legislature and the Governor making recommendations for health care quality improvement and cost containment. The commission shall, at a minimum, examine and address the following issues:

(1) Assessing California health care needs and available resources.

(2) Lowering the cost of health care coverage.

(3) Increasing patient choices of health coverage options and providers.

(4) Improving the quality of health care.

(5) Increasing the transparency of health care costs and the relative efficiency with which care is delivered.

(6) Potential for integration with workers' compensation insurance.

(7) Use of disease management, wellness, prevention, and other innovative programs to keep people healthy while reducing costs and improving health outcomes.

(8) Consolidation of existing state programs to achieve efficiencies where possible.

(9) Efficient utilization of prescription drugs and technology.

(i) Notwithstanding any other provision of law, the members of the task force shall receive no per diem or travel expense reimbursement, or any other expense reimbursement.

SEC. 233. Section 127760 of the Health and Safety Code is amended to read:

127760. The Legislature finds and declares that:

(a) Planning for appropriate supplies and distribution of health care personnel is essential to assure the continued health and well-being of the people of the state and also to contain excess costs that may result from unnecessary training and underutilization of health care personnel.

(b) The information on physicians and surgeons collected by the Medical Board of California, in cooperation with the office, and under the authority of Sections 921 and 923 of the Business and Professions Code, has proven to be valuable for health manpower planning purposes. It is the intent of the Legislature, through this article, to provide for the efficient collection and analysis of similar information on other major categories of healing arts licentiates, in order to facilitate the development of the biennial health manpower plan and other reports and program activities of the office.

(c) It is the intent of the Legislature that the data transmitted to the office by the various boards be processed by the boards so that licentiates are not identified by name or license number.

SEC. 234. Section 128401 of the Health and Safety Code is amended to read:

128401. (a) The Office of Statewide Health Planning and Development shall adopt regulations establishing the statewide Associate Degree Nursing (A.D.N.) Scholarship Pilot Program.

(b) Scholarships under the pilot program shall be available only to students in counties determined to have the most need. Need in a county shall be established based on consideration of all the following factors:

(1) Counties with a registered nurse to population ratio equal or less than 500 registered nurses per 100,000 individuals.

(2) County unemployment rate.

(3) County level of poverty.

(c) A scholarship recipient shall be required to complete, at a minimum, an associate degree in nursing and work in a medically underserved area in California upon obtaining his or her license from the Board of Registered Nursing.

(d) The Health Professions Education Foundation shall consider the following factors when selecting recipients for the A.D.N. Scholarship Pilot Program:

(1) An applicant's economic need, as established by the federal poverty index.

(2) Applicants who demonstrate cultural and linguistic skills and abilities.

(e) The pilot program shall be funded from the Registered Nurse Education Fund established pursuant to Section 128400 and administered by the Health Professions Education Foundation within the office. The Health Professions Education Foundation shall allocate a portion of the moneys in the fund for the pilot program established pursuant to this section, in addition to moneys otherwise allocated pursuant to this article for scholarships and loans for associate degree nursing students.

(f) No additional staff or General Fund operating costs shall be expended for the pilot program.

(g) The Health Professions Education Foundation may accept private or federal funds for purposes of the A.D.N. Scholarship Pilot Program.

(h) 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. 235. Section 881 of the Insurance Code is amended to read:

881. The commissioner shall require the name or any changed name of every insurer (including reciprocal or interinsurance exchanges), every attorney in fact, every motor club, and every underwritten title company to be submitted to him or her by written application and approved by him or her before the name is used in this state for business purposes. If approved, the commissioner shall issue his or her official certificate approving the name, and when appropriate, reserving the name for the following time periods, which shall commence on the date of the approval:

(1) One year if the applicant is newly formed, or if the application is filed on behalf of an entity to be formed, under the laws of this state.

(2) One hundred eighty days and during the pendency in good faith of an application for certificate of authority in the case of a foreign or alien applicant.

(3) Ninety days in the case of an admitted entity requesting authority to change the name under which it will conduct its business with the public in this state.

Except in the case in which an applicant has already paid a fee on a pending application for admission, the commissioner shall collect a fifty-eight dollar (\$58) fee for filing each application for name approval and reservation. An application for name approval may contain not more than three names in the order of applicant's preference and the commissioner's approval shall be limited to only one name submitted by any one application.

The certificate of approval shall be attached to the articles of incorporation before the Secretary of State shall file the articles or any amended articles. The commissioner may reject any name submitted when it is an interference with, or too similar to one already appropriated, or when it is likely to mislead the public in any respect. In the event of a rejection, the applicant shall legally change its name to one approved by the commissioner or, if a foreign or alien insurer, may arrange to conduct any business it may do with the public in California under an approved name as an operating name, identifying itself under both its true name and operating name in the conduct of all official business with the commissioner.

Notwithstanding the provisions of Sections 1282 and 12221, the provisions of this section shall apply to reciprocal insurers, including their attorneys in fact, and shall apply to motor clubs, respectively.

SEC. 236. Section 1063.53 of the Insurance Code is amended to read:

1063.53. (a) In the event a natural disaster such as an earthquake or fire results in covered claim obligations currently payable and owed by the association in excess of its capacity to pay from current funds and current premium assessments allowable under Section 1063.5, and upon a declaration of emergency by the Governor or the President of the United States, the board, in its sole discretion, may by resolution request the department to issue bonds pursuant to this article to provide funds for the payment of covered claims and expenses related thereto. Should the bonds be issued, the department shall have the authority to levy upon member insurers insurance assessments in the amount necessary to pay the principal of and interest on the bonds, and to meet other requirements established by agreements relating to the bonds. The department may enter into an agreement with CIGA for CIGA to act as agent for the department to collect the assessments.

The department may assume the obligation to pay the covered claims of insolvent insurers for the purpose of paying the claims with the proceeds of the bonds. The obligation of the department to pay claims shall be a limited obligation payable only out of the proceeds of the

bonds. The department shall enter into an agreement with CIGA for CIGA to act as agent of the department to adjust and administer the payment of the claims. Premium payments collected pursuant to this authority may only be used for servicing the bond obligations provided for in this section and may be pledged for that purpose. Premium assessments made pursuant to this section shall also be subject to the surcharge provisions in Sections 1063.14 and 1063.145.

(b) In addition to the premium assessments provided for in this section, the board in its discretion and subject to other obligations of the association, may utilize current funds of the association, premium assessments made under Section 1063.5, and advances or dividends received from the liquidators of insolvent insurers to pay the principal and interest on any bonds issued at the board's request.

SEC. 237. Section 1067.08 of the Insurance Code is amended to read:

1067.08. (a) For the purpose of providing the funds necessary to carry out the powers and duties of the association, the board of directors shall assess the member insurers, separately for each account, at the time and for the amounts as the board finds necessary. Assessments shall be due not more than 30 days after prior written notice to the member insurers and shall accrue interest at the rate of 10 percent per annum on and after the due date.

(b) There shall be two assessments, as follows:

(1) Class A assessments shall be made for the purpose of meeting administrative and legal costs and other expenses and examinations conducted under the authority of subdivision (e) of Section 1067.11. Class A assessments may be made whether or not related to a particular impaired or insolvent insurer.

(2) Class B assessments shall be made to the extent necessary to carry out the powers and duties of the association under Section 1067.07 with regard to an impaired or an insolvent insurer.

(c) (1) The amount of any class A assessment shall be determined by the board and may be made on a pro rata or non-pro rata basis. If pro rata, the board may provide that it be credited against future class B assessments. A non-pro rata assessment shall not exceed two hundred fifty dollars (\$250) per member insurer in any one calendar year. The amount of any class B assessment shall be allocated for assessment purposes among the accounts pursuant to an allocation formula that may be based on the premiums or reserves of the impaired or insolvent insurer or any other standard deemed by the board in its sole discretion as being fair and reasonable under the circumstances.

(2) Class B assessments against member insurers for each account shall be in the proportion that the premiums received on business in this state by each assessed member insurer on policies or contracts covered

by each account for the three most recent calendar years for which information is available preceding the year in which the insurer became impaired or insolvent, as the case may be, bears to premiums received on business in this state for those calendar years by all assessed member insurers.

(3) Assessments for funds to meet the requirements of the association with respect to an impaired or insolvent insurer shall not be made until necessary to implement the purposes of this article. Classification of assessments under subdivision (b) and computation of assessments under this subdivision shall be made with a reasonable degree of accuracy, recognizing that exact determinations may not always be possible.

(d) The association may abate or defer, in whole or in part, the assessment of a member insurer if, in the opinion of the board, payment of the assessment would endanger the ability of the member insurer to fulfill its contractual obligations. In the event an assessment against a member insurer is abated, or deferred in whole or in part, the amount by which that assessment is abated or deferred may be assessed against the other member insurers in a manner consistent with the basis for assessments set forth in this section.

(e) (1) The total of all assessments upon a member insurer for any account shall not in any one calendar year exceed 1 percent of the insurer's average premiums received in this state on the policies and contracts covered by the account during the three calendar years preceding the year in which the insurer became an impaired or insolvent insurer. If the maximum assessment, together with the other assets of the association in any account, does not provide in any one year in that account an amount sufficient to carry out the responsibilities of the association, the necessary additional funds shall be assessed as soon thereafter as permitted by this article.

(2) The board may provide in the plan of operation a method of allocating funds among claims, whether relating to one or more impaired or insolvent insurers, when the maximum assessment will be insufficient to cover anticipated claims.

(f) The board may, by an equitable method as established in the plan of operation, refund to member insurers, in proportion to the contribution of each insurer to that account, the amount by which the assets of the account exceed the amount the board finds is necessary to carry out during the coming year the obligations of the association with regard to that account, including assets accruing from assignment, subrogation, net realized gains, and income from investments. A reasonable amount may be retained in any account to provide funds for the continuing expenses of the association and for future losses.

(g) It shall be proper for any member insurer, in determining its premium rates and policyowner dividends as to life or annuity of insurance within the scope of this article, to consider the amount reasonably necessary to meet its assessment obligations under this article.

(h) The association shall issue to each insurer paying an assessment under this article, other than class A assessment, a certificate of contribution, in a form prescribed by the commissioner, for the amount of the assessment so paid. All outstanding certificates shall be of equal dignity and priority without reference to amounts or date of issue. A certificate of contribution may be shown by the insurer in its financial statement as an asset in the form and for the amount, if any, and period of time as the commissioner may approve.

(i) (1) Subject to the provisions of paragraph (3), the plan of operation adopted pursuant to Section 1067.09 shall contain provisions whereby each member insurer is required to recoup over a reasonable length of time a sum reasonably calculated to recoup the assessments with respect to the health insurance account paid by the member insurer under this article by way of a surcharge on premiums charged for health insurance policies to which this article applies. Amounts recouped shall not be considered premiums for any other purpose, including the computation of gross premium tax or agent's commission.

(2) Member insurers who collect surcharges in excess of assessments paid pursuant to this section for an insolvent insurer shall remit the excess to the association as an additional assessment within 120 days after the end of the collection period as determined by the association. The excess shall be applied to reduce future health insurance account assessments for that insurer.

(3) The plan of operation may permit a member insurer to omit the collection of the surcharge from its insureds when it determines the amount of the surcharge collectible from each insured would be unreasonably small in relation to the potential confusion of or objection by the insureds even if the aggregate surcharges collectible from all insureds exceeds the expense of collection.

(j) Any statement of the amount of surcharge required to be provided by the association shall include a description of, and purpose for, the California Life and Health Insurance Guarantee Association, as follows:

“Companies writing health insurance business in California are required to participate in the California Life and Health Insurance Guarantee Association. If a company writing health insurance becomes insolvent, the California Life and Health Insurance Guarantee Association settles unpaid claims and assesses each insurance company for its fair share.”

“California law requires all companies to surcharge policies to recover these assessments. If your policy is surcharged, “CA Surcharge” with an amount will be displayed on your premium notice.”

SEC. 238. Section 1104.9 of the Insurance Code is amended to read:

1104.9. (a) (1) As used in this section, “qualified custodian” means: (A) commercial banks (as defined in Section 105 of the Financial Code), savings and loan associations (as defined in Section 5102 of the Financial Code), and trust companies (other than trust departments of title insurance companies), or any entity approved by the commissioner as a qualified custodian; (B) that is domiciled and has a principal place of business in this state; and (C) that either has a net worth of at least one hundred million dollars (\$100,000,000) or is able to demonstrate to the satisfaction of the commissioner that it is financially secure. The commissioner may consider, among other factors, evidence of the following in order to determine whether a custodian is financially secure for the purpose of this subdivision: (i) its obligations under an agreement approved by the commissioner pursuant to subdivision (c) are guaranteed by its parent holding company, (ii) its parent holding company has a net worth of at least one hundred million dollars (\$100,000,000), or (iii) it is a member of a holding company system with a net worth of at least one hundred million dollars (\$100,000,000).

(2) As used in this section, “qualified depository” means an entity that is located in this state or a reciprocal state and is (A) a depository that provides for the long-term immobilization of securities or a clearing corporation that is also a depository, and that in either case has been approved by or registered with the Securities and Exchange Commission, (B) a Federal Reserve bank, or (C) an entity approved by the commissioner as a qualified depository.

A “qualified depository” may also include an entity that is located outside the United States, if it is a securities depository and clearing agency, incorporated or organized under the laws of a country other than the United States, (i) that operates a transnational system for securities or equivalent book entries (specifically Euroclear and Cedel, or successors to all or substantially all of their operations), or (ii) that operates a central system for securities or equivalent book entries, but solely for securities issued by, or by entities within, the country in which the securities depository and clearing agency is incorporated or organized. The depository shall meet all qualifying requirements imposed by this section upon Euroclear or Cedel.

(3) As used in this section, “qualified subcustodian” means an entity located in this state or a reciprocal state (A) that holds securities of the domestic insurer, and maintains an account through which the securities are held, in this state or a reciprocal state and (B) that has shareholder equity of at least one hundred million dollars (\$100,000,000) or is able

to demonstrate to the satisfaction of the commissioner that it is financially secure. The qualified subcustodian shall be: (A) a commercial bank, a savings and loan association, or a trust company (other than trust departments of title insurance companies); (B) a subsidiary of a qualified custodian; or (C) any entity approved by the commissioner as a qualified subcustodian. The commissioner may consider, among other factors, evidence of the following in order to determine whether a subcustodian is financially secure for the purpose of this subdivision: (i) its obligations are guaranteed by its parent company, (ii) its parent holding company has shareholder equity of at least one hundred million dollars (\$100,000,000), or (iii) it is a member of a holding company system with shareholder equity of at least one hundred million dollars (\$100,000,000). A “qualified subcustodian” may also include an entity that is located outside the United States, that is used by the domestic insurer for the purpose of obtaining access to a qualified depository located outside the United States. The qualified foreign subcustodian shall be a banking institution or trust company, incorporated or organized under the laws of a country other than the United States, that is regulated by that country’s government or an agency thereof, and that has shareholders’ equity in excess of two hundred million dollars (\$200,000,000), whether in United States dollars or the equivalent of United States dollars, as of the close of its most recently completed fiscal year; or a majority-owned direct or indirect subsidiary of a qualified United States bank or bank holding company, if the subsidiary is incorporated or organized under the laws of a country other than the United States and has shareholders’ equity in excess of one hundred million dollars (\$100,000,000), whether in United States dollars or the equivalent of United States dollars, as of the close of its most recently completed fiscal year; or is able to demonstrate to the satisfaction of the commissioner that it is financially secure. The commissioner may consider, among other factors, evidence of the following in order to determine whether a qualified foreign subcustodian is financially secure for purposes of this subdivision: (i) its obligations are guaranteed by its parent company, (ii) its parent holding company has shareholder equity of at least two hundred million dollars (\$200,000,000), or (iii) it is a member of a holding company system with shareholder equity of at least two hundred million dollars (\$200,000,000).

(4) As used in this section, “subsidiary” means: (A) an entity all of whose voting securities (other than director qualifying shares, if any) are owned, directly or indirectly, by a qualified custodian; or (B) any affiliated entity approved by the commissioner as a subsidiary of a qualified custodian. For the purpose of this section, an affiliated entity means an entity that (A) controls or is controlled, either directly or

indirectly or through one or more intermediaries by a qualified custodian or (B) is under the common control, directly or indirectly, as or with a qualified custodian.

(5) As used in this section, “entity approved by the commissioner as a qualified custodian,” “entity approved by the commissioner as a qualified depository,” “entity approved by the commissioner as a qualified subcustodian,” and “entity approved by the commissioner as a subsidiary of a qualified custodian” mean those entities that meet the conditions or standards established by the commissioner. The commissioner shall charge and collect in advance a one-time fee of one thousand five hundred dollars (\$1,500) to review an application for approval of any entity pursuant to this section.

(6) As used in this section, “reciprocal state” has the same meaning as in subdivision (f) of Section 1064.1.

(7) As used in this section, “moneys” means cash held incidental to securities transactions occurring in the ordinary course of business with respect to securities held pursuant to the custodial agreements under this section.

(8) (A) Except as provided in subparagraph (B), as used in this section, “insurer,” “domestic insurer,” and “domestic admitted insurer” mean any insurer, other than a domestic life insurer that is incorporated or that has its principal place of business in this state. Except as provided in subparagraph (B), no portion of this section applies to domestic life insurers nor shall this section affect the interpretation of any other portion of this code with respect to domestic life insurers nor is it intended to create a precedent for the application of its provisions to those insurers. However, the exclusion of domestic life insurers from this section shall not be construed to diminish the commissioner’s existing authority over those insurers under any other provision of this code.

(B) Domestic life insurers that are wholly owned by any insurer other than a domestic life insurer or are part of an insurance holding company system whose other insurer affiliates are not domestic life insurers may elect to be subject to this section by affirmatively stating that election in the statement otherwise required to be filed by that system pursuant to Section 1215.4.

(b) Notwithstanding Section 1104.1, a domestic admitted insurer may maintain its securities and moneys in a reciprocal state, subject to the requirements of this section, through a custodian account located in California in or with a qualified custodian, and that qualified custodian may maintain those securities or moneys in a qualified depository or qualified subcustodian, either or both of which may be located in a reciprocal state. In addition, a domestic insurer that has foreign investments or any other investments that require delivery outside of the

United States upon sale or maturity that qualify under Section 1240, 1241, or 10506, or any other provision of this code, may maintain those securities or moneys in or with a qualified depository located in a jurisdiction outside the United States. However, the aggregate amount of general account investments so deposited shall not exceed the lesser of 5 percent of the total admitted assets of the insurer or 25 percent of the excess of admitted assets over the sum of paid up capital, liabilities, and surplus required by Section 700.02. However, unless exempted by the commissioner, not more than 50 percent of that amount of assets that an insurer is authorized to invest pursuant to Section 1241 or 1241.1 may be maintained in any single country in a qualified depository as defined in clause (ii) of paragraph (2) of subdivision (a) and as to life companies not more than 12.5 percent of that amount of assets that an insurer is authorized to invest pursuant to Section 1241 or 1241.1 may be maintained in any single country in a qualified depository as defined in clause (ii) of paragraph (2) of subdivision (a). The percentage or dollar value of admitted assets and paid up capital and liabilities shall be determined by the insurer's last preceding annual statement of conditions and affairs made as of the preceding December 31 that has been filed with the commissioner pursuant to law. No broker or agent, as defined in the Federal Securities Exchange Act of 1934 (15 U.S.C. Sec. 78c et seq.), may serve as a qualified custodian, qualified subcustodian, or qualified depository under this section. However, no otherwise qualified custodian or subcustodian shall be disqualified on account of its activities as a broker or dealer, as so defined, when the activities are incidental to its custodial or other business.

(c) No securities shall be deposited in or with a qualified custodian, qualified depository, or qualified subcustodian except as authorized by an agreement between the insurer and the qualified custodian, if the agreement is satisfactory to and has been approved by the commissioner. The agreement shall require that the securities be held by the qualified custodian for the benefit of the insurer and that the books and records of the qualified custodian shall so designate. The agreement shall further require that beneficial title to the securities remain in the insurer and shall require that the qualified subcustodian and qualified depository be the agents of the qualified custodian. The agreement shall also specifically require that the qualified custodian shall exercise the standard of care of a professional custodian engaged in the banking or trust company industry and having professional expertise in financial and securities processing transactions and custody would observe in these affairs. This section does not affect the burden of proof under applicable law with respect to the assertion of liability in any claim, action, or dispute alleging any breach of, or failure to observe, that standard of care.

(d) No agreement between the qualified custodian and the insurer shall be approved by the commissioner unless the qualified custodian agrees therein to comply with this section. Except when the agreement is submitted in conjunction with an application for an original certificate of authority or variable contract qualification, a fee of five hundred dollars (\$500) shall be paid to the commissioner at the time of filing the agreement for approval. However, no fee shall be required if the form of the agreement has been previously submitted for approval and approved by the commissioner as certified by the insurer and qualified custodian submitting the agreement to the commissioner. The agreement shall be deemed approved unless, within 60 days after receipt by the commissioner of that agreement and any required filing fee, the commissioner has disapproved the agreement in writing citing specific reasons for disapproval.

(e) Notwithstanding the maintenance of securities with an out-of-state qualified depository or qualified subcustodian pursuant to agreement, if the commissioner has reasonable cause to believe that the domestic insurer (1) is conducting its business and affairs in a manner as to threaten to render it insolvent, or (2) is in a hazardous condition or is conducting its business and affairs in a manner that is hazardous to its policyholders, creditors, or the public, or (3) has committed or is committing or has engaged or is engaging in any act that would constitute grounds for rendering it subject to conservation or liquidation proceedings, or if the commissioner determines that irreparable loss and injury to the property and business of the domestic insurer has occurred or may occur unless the commissioner acts immediately, then the commissioner may, without hearing, order the insurer and the qualified custodian promptly to effect the transfer of the securities back to a qualified custodian, qualified subcustodian, or qualified depository located in this state from any qualified depository or qualified subcustodian located outside of this state (the transfer order). Upon receipt of the transfer order, the qualified custodian shall promptly effect the return of the securities. Notwithstanding the pendency of any hearing or action provided for in subdivision (f), the transfer order shall be complied with by those persons subject to that order. Any challenge to the validity of the transfer order shall be made in accordance with subdivision (f). It is the responsibility of both the insurer and the qualified custodian to oversee that compliance with the transfer order is completed as expeditiously as possible. Upon receipt of a transfer order, there shall be no trading of the securities without specific instructions from the commissioner until the securities are received in this state, except to the extent trading transactions are in process on the day the transfer order is received by the insurer and the failure to complete the trade may result in loss to the insurer's account. Issuance of a transfer

order does not affect the qualified custodian's liabilities with regard to the securities that are the subject of the order.

(f) At the same time the transfer order is served, the commissioner shall issue and also serve upon the insurer a notice of hearing to be held at a time and place fixed therein which shall not be less than 20 nor more than 45 days after the service thereof. Upon request of the insurer and agreement of the department, the hearing may be held within a shorter time but in no event less than 10 days after the service of the notice of hearing. The transfer order and notice of hearing may be served by certified mail, express mail, messenger, telegram, or any other means calculated to give prompt actual notice to (1) the California office of the insurer designated in the agreement, its home office as shown on its most recently filed annual or quarterly statement, or its California agent for service of process; and (2) the California office of the qualified custodian designated in the agreement. If, as a result of the hearing, any of the statements as to conduct, conditions, or grounds for the transfer order are found to be true, or if other conditions or grounds are discovered or become known at the hearing and are found to be true, the commissioner shall affirm the transfer order and may make additional order or orders, pertaining to the transfer order, as may be reasonably necessary.

The insurer subject to the transfer order is entitled to judicial review in the state of the commissioner's order issued as a result of the hearing.

Alternatively, at any time prior to the commencement of the hearing on the transfer order, the insurer may waive the hearing and have judicial review in this state of the transfer order by petition for writ of mandate and declaratory relief without first exhausting administrative remedies or procedures. In that event the insurer is not entitled to any extraordinary remedies prior to trial.

No person other than the insurer has standing at the hearing by the commissioner or for any judicial review of the transfer order.

SEC. 239. Section 1280.7 of the Insurance Code is amended to read:

1280.7. This chapter and the other provisions of this code, except as set forth in this paragraph, shall not apply to or affect unincorporated interindemnity or reciprocal or interinsurance contracts between members of a cooperative corporation, organized and operating under Part 2 (commencing with Section 12200) of Division 3 of Title 1 of the Corporations Code, whose members consist solely of physicians and surgeons licensed in California, which contracts indemnify solely in respect to medical malpractice claims against those members, and which do not collect in advance of loss any moneys other than contributions by each member to a collective reserve trust fund or for necessary expenses of administration. However, interindemnity, reciprocal, or interinsurance contracts with respect to the following types of claims, in addition to medical malpractice claims, may be entered into in

conjunction with contracts with respect to medical malpractice claims if the reserve trust fund is at least twenty million dollars (\$20,000,000):

(1) Bodily injury or property damage arising out of the conduct and of the operations of the member's professional practice occurring on the member's premises.

(2) Officers', directors', and administrators' liability, to the extent that the member's professional practice is operated as a professional corporation or group.

(3) Nonowned automobile coverage.

The provisions of Chapter 3 (commencing with Section 330) of Part 1 of Division 1 shall apply to unincorporated interindemnity or reciprocal or interinsurance contracts. Those unincorporated interindemnity or reciprocal or interinsurance contracts shall comply with all of the following requirements:

(a) Each participating member shall enter into and, concurrently therewith, receive an executed copy of a trust agreement, which shall govern the collection and disposition of all funds of the interindemnity arrangement.

The trust agreement shall, at a minimum, contain provision for all the following matters:

(1) An initial trust corpus of not less than ten million dollars (\$10,000,000), which corpus shall be a trust fund to secure enforcement of the interindemnity arrangement. The average contribution to the initial trust corpus shall be not less than twenty thousand dollars (\$20,000) per member participating in the interindemnity arrangement. The average contribution to the trust fund shall continue at all times to be not less than twenty thousand dollars (\$20,000) per participating member unless the interindemnity arrangement is qualified to admit members under the terms of subdivision (k). No such interindemnity arrangement shall become operative until the requisite minimum reserve trust fund has been established by contributions from not fewer than 500 participating members.

(2) The reserve trust fund created by the trust agreement shall be administered by a board of trustees of three or more members, all of whom shall be physicians and surgeons licensed in California, participating members in the interindemnity arrangement, and elected biennially or more frequently by at least a majority of all members participating in the interindemnity arrangement.

(3) The members of the board of trustees are fiduciaries and the board shall be the custodian of all funds of the interindemnity arrangement, and all those funds shall be deposited in the bank or banks and savings and loan associations in California as the board may designate. Each account shall require two or more signatories for withdrawal of funds in excess of ten thousand dollars (\$10,000). The authorized signatories shall be

appointed by the board and, as to any withdrawal in excess of one hundred thousand dollars (\$100,000), at least one of the two or more authorized signatories shall be a physician and surgeon licensed in California and a participating member in the interindemnity arrangement. Each signatory on those accounts shall maintain, at all times while empowered to draw on those funds, for the benefit of the interindemnity arrangement, a bond against loss suffered through embezzlement, mysterious disappearance, holdup or burglary, or other loss issued by a bonding company licensed to do business in California in a penal sum of not less than one hundred thousand dollars (\$100,000).

(4) All funds held in trust that are in excess of current financial needs shall be invested and reinvested from time to time, under the direction of the board of trustees, in eligible securities, as defined in Section 16430 of the Government Code, in portfolios of eligible securities, in exchange traded financial futures contracts or exchange traded options contracts to hedge investment in those eligible securities, or in certificates of deposits or time deposits issued by banks and savings and loan associations in California duly insured by instrumentalities of the United States government.

Pursuant to the authority contained in Section 1 of Article XV of the California Constitution, the restrictions upon rates of interest contained in Section 1 of Article XV of the California Constitution shall not apply to any obligations of, loans made by, or forbearances of, any trust established by a cooperative corporation providing indemnity pursuant to this section.

(5) The income earned on the corpus of the trust fund shall be the source for the payment of the claims, costs, judgments, settlements, and costs of administration contemplated by the interindemnity arrangement, and to the extent the income is insufficient for those purposes, the board of trustees shall have the power and authority to assess participating members for all amounts necessary to meet the obligations of the interindemnity arrangement in accordance with the terms thereof. If necessary in the best interests of the interindemnity arrangement, the board of trustees may make assessments to increase the corpus of the trust fund in accordance with the terms of the interindemnity arrangement. Any assessment levied against a member shall be the personal obligation of the member. Any person who obtains a final judgment of recovery for medical malpractice or other liability authorized by this section against a member of the interindemnity arrangement shall have, in addition to any other remedy, the right to assert directly all rights to indemnification that the judgment debtor has under the interindemnity arrangement. The final judgment shall be a lien on the reserve trust fund to secure payment of the judgment, limited to the extent of the judgment debtor's rights to indemnification.

Any change in the assessment agreement between the interindemnity arrangement and its membership shall be submitted to the entire membership for ratification. If the ratification process is to be performed by a mail ballot, a ballot shall be sent to each member by first-class mail, postage prepaid. Within 45 days after the posted date on the mail ballot, each member who decides to vote on the assessment change shall return his or her ballot to the interindemnity arrangement for the tallying of the ballots. An affirmative vote of 75 percent of those voting shall be required to effectuate any change in the assessment agreement.

If a change in the assessment agreement is to be submitted to members at a properly called meeting, the membership shall be notified of the meeting and the proposed assessment change by first-class mail, postage prepaid, posted at least 45 days prior to the meeting. Seventy-five percent of those present in person or by proxy at the meeting shall be required to effectuate any change in the assessment agreement.

(6) Each participating member shall be covered by the interindemnity arrangement for not less than one million dollars (\$1,000,000) for each occurrence of professional negligence or other liability authorized by this section, with the terms and conditions of the coverage to be specified in the trust agreement, except that the interindemnity arrangement may provide participating members with an aggregate limit for all payments on behalf of the member and may provide participating members with less than one million dollars (\$1,000,000) of coverage for each occurrence of professional negligence or other liability authorized by this section if the interindemnity arrangement obtains for the benefit of the members reinsurance of excess limits coverage in an amount that when added to the coverage provided by the interindemnity arrangement would equal not less than one million dollars (\$1,000,000) for each occurrence of professional negligence or other liability authorized by this section.

Any change in the coverage provided by the trust agreement between the interindemnity arrangement and its membership shall be submitted to the entire membership for ratification. If the ratification process is to be performed by a mail ballot, a ballot shall be sent to each member by first-class mail, postage prepaid. Within 45 days after the posted date on the mail ballot, each member who decides to vote on the coverage change shall return his or her ballot to the interindemnity arrangement for the tallying of the ballot. An affirmative vote of 75 percent of those voting shall be required to effectuate any change in the coverage provided by the trust agreement, except that at least 50 percent of the entire membership must agree to any change.

If any change is to be submitted to members at a properly called meeting, the membership shall be notified of the meeting and the proposed coverage change by first-class mail, postage prepaid, posted

at least 45 days prior to the meeting. An affirmative vote of 75 percent of the membership present at the meeting, in person or by proxy, shall be required to effectuate any change, except that at least 50 percent of the entire membership must agree to any change.

(7) Withdrawal of all, or any portion of, the corpus of the reserve trust fund shall be upon the written authorization signed by at least two-thirds of the members of the board of trustees.

(8) The board of trustees shall cause both of the following to be furnished to each member participating in the interindemnity arrangement, and to be filed with the Commissioner of Corporations:

(A) Within 90 days after the end of each fiscal year, a statement of the assets and liabilities of the interindemnity arrangement as of the end of that year, a statement of the revenue and expenditures of the interindemnity arrangement, and a statement of the changes in corpus of the reserve trust for that year, in each case accompanied by a certificate signed by a firm of independent certified public accountants selected by the board of trustees indicating that the firm has conducted an audit of those statements in accordance with generally accepted auditing standards and indicating the results of the audit.

(B) Within 45 days after the end of each of the first three quarterly periods of each fiscal year, a statement of the assets and liabilities of the interindemnity arrangement as of the end of the quarterly period, a statement of the revenue and expenditures of the interindemnity arrangement, and a statement of the changes in corpus of the reserve trust for the period, in each case accompanied by a certificate signed by a majority of the members of the board of trustees to the effect that the statements were prepared from the official books and records of the interindemnity arrangement.

(C) In addition to the statements required to be filed pursuant to this paragraph, the board of trustees shall annually file with the Commissioner of Corporations an authorization for disclosure to the commissioner of all financial records pertaining to the interindemnity arrangement. For the purpose of this subparagraph, the authorization for disclosure shall also include the financial records of any association, partnership, or corporation that has management or control of the funds or the operation of the interindemnity arrangement.

(9) The trust agreement shall also provide for all the following:

(A) In the event a participating member who is in full compliance with the trust agreement, including the payment of all outstanding dues and assessments, dies, the initial contribution made by the decedent shall be returned to the member's estate or designated beneficiary; the indemnity coverage shall continue for the benefit of the decedent's estate in respect of occurrences during the time the decedent was a participating member; and neither the person receiving the repayment of the initial

contribution nor the decedent's estate shall be responsible for any assessments levied following the death of the member.

(B) A participating member who is then in full compliance with the trust agreement and who has reached the age of 65 and who has retired completely from the practice of medicine may elect to retire from the interindemnity arrangement, in which case the member shall not be responsible for assessments levied following the date notice of retirement is given to the trust. Following that retirement, the indemnity coverage shall continue for the benefit of the member in respect of occurrences prior to the time the member retired from the interindemnity arrangement. That retired member's initial contribution shall be repaid 10 years from the date the notice of retirement is received by the trust, or an earlier date as specified in the trust agreement. The board of trustees may reduce the age for retirement to not less than 55 years subject to all other requirements in this paragraph and any additional requirements deemed necessary by the board.

(C) During any period in which a participating member, who is then in full compliance with the trust agreement, has, in the judgment of the board of trustees, become unable to perform any and every duty of his or her regular professional occupation, the participating member may request disability status in accordance with the terms of the interindemnity arrangement. During any period of disability status, the member shall not be responsible for assessments levied during the period and, if so provided in the interindemnity arrangement, all indemnity coverage, both as to defense and payment of claims, shall terminate as to occurrences arising out of the actions of the participating member during the period of disability status.

(D) In the event a participating member fails to pay any assessment when due, the board of trustees may terminate that person's membership status if the failure to pay is not cured within 30 days from the date the assessment was due. Upon that termination the former participating member shall not be entitled to the return of all or any part of his or her initial contribution, and the indemnity coverage shall thereupon terminate as to all claims then pending against that person and in respect to all occurrences prior to the date of that termination of membership. However, in the event the interindemnity arrangement is then providing legal defense services to that person, the interindemnity arrangement shall continue to provide those services for a period of 10 days following that termination.

(E) In the event a participating member fails to comply with any provision of the trust agreement (other than a failure to pay assessments when due), the board of trustees may terminate that person's membership status if the failure to comply is not cured within 60 days from the date the person is notified of the failure, provided that before

that membership status may be terminated the person shall be given the right to call for a hearing before the board of trustees (to be held before the expiration of the 60-day period), at which hearing the person shall be given the opportunity to demonstrate to the board of trustees that no failure to comply has occurred or, if it has occurred, that it has been cured. Upon that termination, the former participating member shall not be entitled to the return of all or any part of his or her initial contribution, and the indemnity coverage shall thereupon terminate as to all claims then pending against the person and in respect to all occurrences prior to the date of the termination of membership. However, in the event the interindemnity arrangement is then providing legal defense services to that person, the interindemnity arrangement shall continue to provide those services for a period of 10 days following the termination.

(F) A participating member who is then in full compliance with the trust agreement may elect voluntarily to terminate his or her membership in the interindemnity arrangement. Upon that voluntary termination, that person may further elect to cease being responsible for future assessments, or to continue to pay those assessments until the time as the person's initial contribution is repaid. In the event the person elects to cease being responsible for future assessments, the indemnity coverage shall thereupon terminate and the person shall either be responsible for his or her own exposure for acts committed while a participating member in the interindemnity arrangement, or he or she may request the interindemnity arrangement to purchase or provide, at the cost of the person, coverage for that exposure. The initial contribution of the person shall be repaid on the 10th anniversary of the date the contribution was made. In the event the person elects to continue to be responsible for assessments, the indemnity coverage shall continue in respect of occurrences prior to the date of the voluntary termination, and the initial contribution of the person shall be repaid at the time as the board of trustees is satisfied that (i) there are no claims pending against the person in respect of occurrences during the time the person was a participating member, and (ii) the statute of limitations has run on all claims that might be asserted against that person in respect of occurrences during that time. In no event shall that repayment be made earlier than the 10th anniversary of the date the contribution was made.

Any person whose membership in an interindemnity arrangement is involuntarily terminated for failure to pay assessments or who voluntarily terminates that membership and elects to be responsible for his or her own exposure for acts committed while a participating member, shall not be eligible to become a member of any other interindemnity arrangement for a period of five years after the termination unless, on the effective date of the act which amended this section during the 1985–86 Regular Session, the person had on file with

the Department of Corporations a copy of a subscription agreement signifying the person's agreement to transfer membership or had paid a minimum of ten thousand dollars (\$10,000) to another interindemnity arrangement that was granted a permit to organize prior to January 1, 1985.

(G) The board of trustees shall have the right to terminate the membership of a participating member if the board of trustees determines that the termination is in the best interests of the interindemnity arrangement even though that person has complied with all of the provisions of the trust agreement. A termination may be effected only if at least two-thirds of the members of the board of trustees indicate in writing their decision to terminate. If the board of trustees proposes to terminate a member, the member shall have the right to call a special meeting of all participating members in accordance with the rules established by the board of trustees for the purpose of voting on whether or not the member shall be terminated. The member shall not be terminated if at least two-thirds of the participating members present, in person or by proxy, indicate that the member should not be terminated. In the event a member is terminated, the person shall elect either: (i) to request the return of his or her initial contribution, in which case the contribution shall be repaid and the indemnity coverage shall thereupon terminate as to all claims then pending against the person and in respect to all occurrences prior to the date of the termination of membership. However, in the event the interindemnity arrangement is then providing legal defense services to the person, the interindemnity arrangement shall continue to provide those services for a period of 30 days to enable the person to assume his or her own defense; or (ii) to release all rights to the return of the initial contribution, in which case the indemnity coverage shall continue for the benefit of the member in respect of occurrences during the time the person was a participating member and the person shall have no responsibility for assessments levied following that termination. The interindemnity arrangement may provide that if a member is terminated and fails to make the election set forth herein within 45 days of the date of notification of termination of membership, the participating member shall be deemed to have elected to release all rights to a return of his or her initial contribution, in which case indemnity coverage shall apply for the benefit of the member with respect to occurrences occurring prior to the termination.

(10) Each member participating in the interindemnity arrangement shall have the right of access to, and the inspection of, the books and records of the interindemnity arrangement, which rights shall be similar to the corporate shareholders pursuant to Section 3003 of the Corporations Code, or, commencing January 1, 1977, Sections 1600 to 1605, inclusive, of the Corporations Code.

(11) There shall be a meeting of all members participating in the interindemnity arrangement, at least annually, after not less than 10 days' written notice has been given, at a location reasonably convenient to the participating members and on a date that is within a reasonable period of time following the distribution of the annual financial statements.

(12) Notwithstanding Sections 12453 and 12703 of the Corporations Code, on any matter to be voted upon by the membership at either a regular or special meeting, a member shall have the right to vote in person or by written proxy filed with the corporate secretary prior to the meeting. No proxy shall be made irrevocable, nor be valid beyond the earliest of the following dates:

- (A) The date of expiration set forth in the proxy.
- (B) The date of termination of membership.
- (C) Eleven months from the date of execution of the proxy.
- (D) Such time as may be specified in the bylaws, not to exceed 11 months.

(13) The interindemnity arrangement, and the reserve trust fund incident thereto, shall be subject to termination at any time by the vote or written consent of not less than three-fourths of the participating members.

(b) The board of trustees shall cause to be recorded with the office of the county recorder of the county of the principal place of business of the interindemnity arrangement within 90 days following the end of each fiscal year, a written statement, executed by a majority of the board of trustees under penalty of perjury, reciting that each member participating in the interindemnity arrangement was mailed a copy of the annual financial statement and quarterly audit certificates by first-class mail, postage prepaid, required pursuant to paragraph (8) of subdivision (a).

(c) Each person solicited to become a participating member in an interindemnity arrangement shall receive in writing, at least 48 hours prior to the execution by the prospective participating member of the trust agreement, and at least 48 hours prior to the payment by the prospective participating member of any consideration in connection with the interindemnity arrangements, the following information:

(1) A copy of the articles of incorporation and bylaws of the cooperative corporation and a copy of the form of trust agreement to be executed by the prospective participating member.

(2) A disclosure statement regarding the interindemnity arrangement. The disclosure statement shall contain on the first or cover page a legend in boldface type reading substantially as follows:

“THE INTERINDEMNITY ARRANGEMENT CONTEMPLATED HEREIN PROVIDES THAT PARTICIPATING MEMBERS HAVE UNLIMITED PERSONAL LIABILITY FOR ASSESSMENTS THAT

MAY BE LEVIED TO PAY FOR THE PROFESSIONAL NEGLIGENCE OR OTHER LIABILITY AUTHORIZED BY THIS SECTION. NO ASSURANCES CAN BE GIVEN REGARDING THE AMOUNT OR FREQUENCY OF ASSESSMENTS WHICH MAY BE LEVIED, OR THAT ALL PARTICIPATING MEMBERS WILL MAKE TIMELY PAYMENT OF THEIR ASSESSMENTS TO COVER THE PROFESSIONAL NEGLIGENCE OR OTHER LIABILITY AUTHORIZED BY THIS SECTION.”

(3) The disclosure statement shall further contain all of the following information:

(A) The amount, nature, and terms and conditions of the professional negligence or other liability relating to a member’s professional practice coverage available under the interindemnity arrangement.

(B) The amount of the initial contribution required of each participating member and a statement of the minimum number of members and aggregate contributions required for the interindemnity arrangement to commence.

(C) The names, addresses, and professional experience of each member of the board of trustees.

(D) The requirements for admission as a participating member.

(E) A statement of the services to be provided under the interindemnity arrangement to each participating member.

(F) A statement regarding the obligation of each member to pay assessments and the consequences for failure to do so.

(G) A statement of the rights and obligations of a participating member in the event the member dies, retires, becomes disabled, or terminates participation for any reason, or the interindemnity arrangement terminates for any reason.

(H) A statement regarding the services to be provided, indicating whether these services will be delegated to others pursuant to a contractual arrangement. For those services delegated to others pursuant to a contractual arrangement, a statement fully disclosing and itemizing all consideration received directly or indirectly under the arrangement, and indicating what the consideration is for, and how, when, and to whom the consideration will be paid.

(I) A statement of the voting rights of the members and the circumstances under which participation of a member may be terminated and under which the interindemnity arrangement may be terminated.

(J) If any statement of estimated or projected financial information for the interindemnity arrangement is used, a statement of the estimation or projection and a summary of the data and assumptions upon which it is based.

(4) A list with the names and addresses of current participating members of the interindemnity arrangement.

(d) No officer, director, trustee, employee, or member of the interindemnity arrangement or the cooperative corporation shall receive, or be entitled to receive, any payment, bonus, salary, income, compensation, or other benefit whatsoever, either from the reserve trust fund or the income therefrom or from any other funds of the interindemnity arrangement or the members thereof based on the number of participating members, or the amount of the reserve trust fund or other funds of the interindemnity arrangement.

(e) A peer review committee or committees shall be established by the trust agreement to review the qualifications of any physician and surgeon to participate or continue to participate in the interindemnity arrangement, and to review the quality of medical services rendered by any participating member, as well as the validity of medical malpractice claims made against participating members. Any physician and surgeon, prior to becoming a participating member of the interindemnity arrangement, shall be reviewed and approved by a majority of the members of the peer review committee. No peer review committee, or any of its members, shall be liable for any action taken by the committee in reviewing the qualifications of a physician and surgeon to participate or continue to participate, or the quality of medical services rendered, or the validity of a medical malpractice claim, unless it is alleged and proved that the action was taken with actual malice.

(f) The following are hereby defined as unfair methods of competition and deceptive acts or practices with respect to cooperative corporations or interindemnity arrangements provided for in this section:

(1) Making any false or misleading statement as to, or issuing, circulating, or causing to be made, issued, or circulated, any estimate, illustration, circular, or statement misrepresenting the terms of any interindemnity arrangement or the benefits or advantages promised thereby, or making any misleading representation or any misrepresentation as to the financial condition of the interindemnity arrangement, or making any misrepresentation to any participating member for the purpose of inducing or tending to induce the member to lapse, forfeit, or surrender his or her rights to indemnification under the interindemnity arrangement. It shall be a false or misleading statement to state or represent that a cooperative corporation or interindemnity arrangement is or constitutes "insurance" or an "insurance company" or an "insurance policy."

(2) Making or disseminating or causing to be made or disseminated before the public in this state, in any newspaper or other publication, or any advertising device, or by public outcry or proclamation, or in any other manner or means whatsoever, any statement containing any assertion, representation, or statement with respect to those cooperative

corporations or interindemnity arrangements, or with respect to any person in the conduct of those cooperative corporations or interindemnity arrangements, which is untrue, deceptive, or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue, deceptive, or misleading. It shall be a false or misleading statement to state or represent that a cooperative corporation or interindemnity arrangement is or constitutes “insurance” or an “insurance company” or an “insurance policy.”

(3) Entering into any agreement to commit, or by any concerted action committing, any act of boycott, coercion, or intimidation resulting in or tending to result in an unreasonable restraint of, or monopoly in, those cooperative corporations or interindemnity arrangements.

(4) Filing with any supervisory or other public official, or making, publishing, disseminating, circulating, or delivering to any person, or placing before the public, or causing directly or indirectly, to be made, published, disseminated, circulated, or delivered to any person, or placed before the public any false statement of financial condition of a cooperative corporation or interindemnity arrangement with intent to deceive.

(5) Making any false entry in any book, report, or statement of a cooperative corporation or interindemnity arrangement with intent to deceive any agent or examiner lawfully appointed to examine into its condition or into any of its affairs, or any public official to whom a cooperative corporation or interindemnity arrangement is required by law to report, or who has authority by law to examine into its condition or into any of its affairs, or, with like intent, willfully omitting to make a true entry of any material fact pertaining to a cooperative corporation or interindemnity arrangement in any book, report, or statement of a cooperative corporation or interindemnity arrangement.

(6) Making or disseminating, or causing to be made or disseminated, before the public in this state, in any newspaper or other publication, or any other advertising device, or by public outcry or proclamation, or in any other manner or means whatever, whether directly or by implication, any statement that a cooperative corporation or interindemnity arrangement is a member of the California Insurance Guarantee Association, or insured against insolvency as defined in Section 119.5. This paragraph shall not be interpreted to prohibit any activity of the California Insurance Guarantee Association or of the commissioner authorized, directly or by implication, by Article 14.2 (commencing with Section 1063) of Chapter 1.

(7) Knowingly committing or performing with a frequency as to indicate a general business practice any of the following unfair claims settlement practices:

(A) Misrepresenting to claimants pertinent facts or provisions relating to any coverage at issue.

(B) Failing to acknowledge and act promptly upon communications with respect to claims arising under those interindemnity arrangements.

(C) Failing to adopt and implement reasonable standards for the prompt investigation and processing of claims arising under those interindemnity arrangements.

(D) Failing to affirm or deny coverage of claims within a reasonable time after proof of claim requirements have been completed and submitted by the participating member.

(E) Not attempting in good faith to effectuate prompt, fair, and equitable settlements of claims in which liability has become reasonably clear.

(F) Compelling participating members to institute litigation to recover amounts due under an interindemnity arrangement by offering substantially less than the amounts ultimately recovered in actions brought by those participating members when those participating members have made claims under those interindemnity arrangements for amounts reasonably similar to the amounts ultimately recovered.

(G) Attempting to settle a claim by a participating member for less than the amount to which a reasonable person would have believed he or she was entitled by reference to written or printed advertising material accompanying or made part of an application for membership in an interindemnity arrangement.

(H) Attempting to settle claims on the basis of an interindemnity arrangement that was altered without notice to the participating member.

(I) Failing, after payment of a claim, to inform participating members, upon request by them, of the coverage under which payment has been made.

(J) Making known to claimants a practice of the cooperative corporation or interindemnity arrangement of appealing from arbitration awards in favor of claimants for the purpose of compelling them to accept settlements or compromises less than the amount awarded in arbitration.

(K) Delaying the investigation or payment of claims by requiring a claimant, or his or her physician, to submit a preliminary claim report, and then requiring the subsequent submission of formal proof of loss forms, both of which submissions contain substantially the same information.

(L) Failing to settle claims promptly, where liability has become apparent, under one portion of an interindemnity arrangement in order to influence settlements under other portions of the interindemnity arrangement.

(M) Failing to provide promptly a reasonable explanation of the basis relied on in the interindemnity arrangement, in relation to the facts of applicable law, for the denial of a claim or for the offer of a compromise settlement.

(N) Directly advising a claimant not to obtain the services of an attorney.

(O) Misleading a claimant as to the applicable statute of limitations.

(g) Notwithstanding any contrary provisions of Part 2 (commencing with Section 12200) of Division 3 of Title 1 of the Corporations Code, it shall not be necessary to hold a meeting of members of the cooperative corporation for the purpose of electing directors if the bylaws provide the election may be held by first-class mail balloting. First-class mail balloting may also be used in conjunction with a meeting at which directors are to be elected and all mail ballots shall count toward establishing a quorum for the meeting for the limited purpose of the issues set forth in the mail ballot. Directors shall be elected as follows:

(1) The candidates receiving the highest number of votes, up to the number of directors to be elected, by a specified date at least 45 days but not later than 60 days after the ballots are first mailed, postage prepaid, to the members (or the date of a meeting of members held in conjunction therewith) shall be elected.

(2) In the event that no candidate receives a majority of the votes cast for a vacant office, a runoff election shall be held between the two candidates receiving the highest number of votes cast. The runoff election shall be held at least 45 days but not more than 60 days after the ballots for the election are mailed, postage prepaid. In the event that there is more than one office for which no candidate receives a majority of the votes cast, the candidates for the runoff shall be twice the number of vacant offices, and shall be those persons who received the highest number of votes therefor.

Those first-class mail ballots shall be kept on file for a period of three months after all vacant board positions have been filled, and shall be subject to inspection at any reasonable time by any members of the cooperative corporation.

(h) No officer, director, trustee, or member of the interindemnity arrangement or the cooperative corporation, or any entity in which that person has a material financial interest, shall enter into or renew any transaction or contract with the trust unless the material facts as to the transaction or contract and as to the interest of the person are fully disclosed to the participating members, and the transaction or contract is approved by an affirmative vote of at least 75 percent of the membership present at a meeting, in person or by proxy. If any transaction or contract is to be submitted to members at a properly called meeting, the membership shall be notified of the meeting and of the

transaction or contract by first-class mail, postage prepaid, at least 45 days prior to the meeting.

(i) Services provided to the trust pursuant to a delegated contractual arrangement shall be embodied in a written contract. Each written contract shall provide for reasonable consideration to the parties. In addition, each written contract shall be disclosed annually to participating members in a disclosure report containing the information described in subparagraph (H) of paragraph (3) of subdivision (c). The disclosure report shall be sent to participating members by first-class mail, postage prepaid, and shall be mailed separately from any statements, records, or other documents. The disclosure requirements of this subdivision shall apply to all existing and future written contracts.

(j) Upon request of the Commissioner of Corporations, an interindemnity arrangement shall immediately forward to the commissioner a current list of participating members, including the names, addresses, and telephone numbers of those members.

(k) Notwithstanding any provision to the contrary, whenever the membership of a cooperative organization, organized pursuant to Part 2 (commencing with Section 12200) of Division 3 of Title 1 of the Corporations Code and consisting solely of physicians and surgeons licensed in this state amounts to 2,000 or more members and the trust fund is at least forty million dollars (\$40,000,000), which is available to the public for malpractice claims or other claims authorized by this section, the cooperative is authorized to admit members without a contribution to that trust fund if assessments are charged to each of those members within the first 50 months in an amount equal to the amount of the contribution to the reserve fund that would otherwise be required.

SEC. 240. Section 1776 of the Insurance Code is amended to read:

1776. Any surplus line broker who willfully fails or refuses to report to the commissioner any insurance on subject matter located within this state placed under his or her name with nonadmitted insurers, or who, by willful omission from the records required to be maintained by him or her for that purpose, attempts to evade the payment of taxes on any such insurance, is, in addition to being required to pay the tax, together with a penalty equal in amount to the tax, guilty of a misdemeanor.

It is a misdemeanor for any surplus line broker or special lines' surplus line broker to accept or pay directly or indirectly any consideration or remuneration for or in connection with the placing of insurance that, if done by a person within this state, is governed by the provisions of this chapter, when the placing was not done by a person licensed therefor pursuant to this chapter.

It is a misdemeanor for any agent or broker to solicit, negotiate, or effect any insurance governed by the provisions of this chapter in nonadmitted insurers, except by and through a surplus line broker or

special lines' surplus line broker licensed pursuant to this chapter. Except in the case of insurance specified in subdivision (b) of Section 1760.5, it is a misdemeanor for any surplus line broker or special lines' surplus line broker to accept, place, pay, or permit the payment of commission or other remuneration on insurance placed by him or her under authority of his or her license to any person other than one holding a license to act as an insurance agent, insurance broker, surplus line broker, or special lines' surplus line broker, except that the business may be accepted by such surplus line broker or special lines' surplus line broker directly from an insured or other person who would likewise be entitled to place the business directly with an admitted insurer without the solicitation, negotiation, or effecting thereof by an insurance agent or broker.

The commissioner may deny, suspend, or revoke any license issued pursuant to this code if he or she finds after notice and hearing in accordance with the procedure provided in Article 13 (commencing with Section 1737) of Chapter 5 that the licensee has violated any provisions of this section.

The permission granted in this chapter to place any insurance in a nonadmitted insurer shall not be deemed or construed to authorize any insurer to do business in this state.

Placement activities of a licensed surplus line broker in accordance with this chapter, including, but not limited to, policy issuance, shall not be deemed or construed to be business done by the insurer in this state.

SEC. 241. Section 1861.025 of the Insurance Code is amended to read:

1861.025. A person is qualified to purchase a Good Driver Discount policy if he or she meets all of the following criteria:

(a) He or she has been licensed to drive a motor vehicle for the previous three years.

(b) During the previous three years, he or she has not done any of the following:

(1) Had more than one violation point count determined as provided by subdivision (a), (b), (c), (d), (e), (g), or (h) of Section 12810 of the Vehicle Code, but subject to the following modifications:

For the purposes of this section, the driver of a motor vehicle involved in an accident for which he or she was principally at fault that resulted only in damage to property shall receive one violation point count, in addition to any other violation points that may be imposed for this accident.

If, under Section 488 or 488.5, an insurer is prohibited from increasing the premium on a policy on account of a violation, that violation shall not be included in determining the point count of the person.

If a violation is required to be reported under Section 1816 of the Vehicle Code, or under Section 784 of the Welfare and Institutions Code, or any other provision requiring the reporting of a violation by a minor, the violation shall be included for the purposes of this section in determining the point count in the same manner as is applicable to adult violations.

(2) Had more than one dismissal pursuant to Section 1803.5 of the Vehicle Code that was not made confidential pursuant to Section 1808.7 of the Vehicle Code, in the 36-month period for violations that would have resulted in the imposition of more than one violation point count under paragraph (1) if the complaint had not been dismissed.

(3) Was the driver of a motor vehicle involved in an accident that resulted in bodily injury or in the death of any person and was principally at fault. The commissioner shall adopt regulations setting guidelines to be used by insurers for the determination of fault for the purposes of this paragraph and paragraph (1).

(c) During the previous seven years, he or she has not been convicted of a violation of Section 23140, 23152, or 23153 of the Vehicle Code, a felony violation of Section 23550 or 23566, or former Section 23175 or, as those sections read on January 1, 1999, of the Vehicle Code, or a violation of Section 191.5 or paragraph (3) of subdivision (c) of Section 192 of the Penal Code.

(d) Any person who claims that he or she meets the criteria of subdivisions (a), (b), and (c) based entirely or partially on a driver's license and driving experience acquired anywhere other than in the United States or Canada is rebuttably presumed to be qualified to purchase a Good Driver Discount policy if he or she has been licensed to drive in the United States or Canada for at least the previous 18 months and meets the criteria of subdivisions (a), (b), and (c) for that period.

SEC. 242. Section 10089.45 of the Insurance Code is amended and renumbered to read:

12975.9. (a) The Seismic Safety Account is hereby created as a special account within the Insurance Fund. Money in the account may be appropriated by the Legislature for the purposes of this section to fund the department and the Seismic Safety Commission. Assessments imposed on insurers as a prorated percentage of premiums earned on property exposures for both commercial and residential insurance policies relative to the aggregate premiums earned on those exposures by all insurers shall be deposited in the account. The premiums earned for property exposures shall be as stated on lines 4 and 5.1 of the annual statement filed by each insurer pursuant to Section 900. The assessments shall be set annually based on earned premiums reported for the next preceding year by the department and calculated so that the funds in the account shall be sufficient to fund appropriations for support of the

Seismic Safety Commission, for the actual collection and administrative costs of the department, and for the maintenance of an adequate reserve. The department shall submit the proposed assessments to the Seismic Safety Commission for its review at a regularly scheduled meeting of the commission.

(b) No assessment shall be levied on insurers with less than one hundred thousand dollars (\$100,000) of annual direct premiums earned on property exposures for both commercial and residential insurance policies. The department may adjust this amount as necessary to minimize costs by excluding assessment amounts that are too small to justify the cost of assessment and collection or if assessment or collection is impractical.

(c) An insurer, in its discretion, may recover this assessment in an equitable fashion from the insured. The insurer, upon receipt of an invoice, shall transmit payment to the department for deposit in the Seismic Safety Account. Any deficiency or excess in the amount collected in relation to the appropriation authority for the commission and the department shall be accounted for in the subsequent annual fee calculation. Any balance remaining in the Seismic Safety Account at the end of the fiscal year shall be retained in the account and carried forward to the next fiscal year.

(d) Funds in the Seismic Safety Account shall be distributed, upon appropriation, to the Seismic Safety Commission for the support of the commission and to the department for the actual administrative costs incurred in collecting the assessments.

(e) The department shall report annually to the Legislature, the Seismic Safety Commission, and the Department of Finance on the assessment calculation methodology employed.

(f) This section shall remain in effect until July 1, 2007, and as of that date is repealed, unless a later enacted statute, that is enacted before July 1, 2007, deletes or extends that date.

SEC. 243. Section 10113.2 of the Insurance Code is amended to read:

10113.2. (a) This section applies to any person entering into or soliciting viatical settlements pursuant to Section 10113.1.

(b) (1) No person may enter into or solicit viatical settlements pursuant to Section 10113.1 unless that person has been licensed by the commissioner under this section. The person shall file an application for a license in the form prescribed by the commissioner, and the application shall be accompanied by a fee of two thousand eight hundred thirty-three dollars (\$2,833). The applicant shall provide any information the commissioner may require. The commissioner may issue a license, or deny the application if, in his or her discretion, it is determined that it is

contrary to the interests of the public to issue a license to the applicant. The reasons for a denial shall be set forth in writing.

(2) Whenever it appears to the commissioner that it is contrary to the interests of the public for a person licensed pursuant to this section to continue to transact viatical settlements business, he or she shall issue a notice to the licensee stating the reasons therefor. If, after a hearing, the commissioner concludes that it is contrary to the interests of the public for the licensee to continue to transact viatical settlements business, he or she may revoke the person's license, or issue an order suspending the license for a period as determined by the commissioner. Any hearing conducted pursuant to this paragraph shall be in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, except that the hearing may be conducted by administrative law judges chosen pursuant to Section 11502 or appointed by the commissioner, and the commissioner shall have the powers granted therein.

(3) Each licensee shall owe and pay in advance to the commissioner an annual renewal fee of one hundred seventy-seven dollars (\$177). This fee shall be for annual periods commencing on July 1 of each year and ending on June 30 of each year, and shall be due on each March 1 and shall be delinquent on and after each April 1.

(4) Any licensee that intends to discontinue transacting viatical settlements in this state shall so notify the commissioner, and shall surrender its license.

(c) A viatical settlements licensee shall file with the department a copy of all viatical settlement forms used in this state. No licensee may use any viatical settlement form in this state unless it has been approved by the commissioner. Any viatical settlement form filed with the commissioner shall be deemed approved if it has not been disapproved within 60 days of filing. The commissioner shall disapprove a viatical settlement form if, in his or her discretion, the form, or provisions contained therein, are contrary to the interests of the public, or otherwise misleading or unfair to the consumer. The commissioner may rescind an approval for any reason or on any basis that would have justified initial disapproval. In the case of disapproval or rescission of approval, the licensee may, within 15 days of notice of the disapproval or rescission, request a hearing before the commissioner or his or her designee, and the hearing shall be held within 30 days of the request.

(d) Viatical settlements licensees shall be required to disclose or advise any applicant for a viatical settlement, at the time of solicitation for the viatical settlement, of all of the following:

(1) Possible alternatives to viatical settlements for persons with catastrophic or life-threatening illness, including, but not limited to, accelerated benefits options that may be offered by the life insurer.

(2) Tax consequences that may result from entering into a viatical settlement.

(3) Consequences for interruption of public assistance as provided by information provided by the State Department of Health Services and the State Department of Social Services under Section 11022 of the Welfare and Institutions Code.

(e) All medical information solicited or obtained by any person soliciting or entering into a viatical settlement is subject to Article 6.6 (commencing with Section 791) of Chapter 1 of Part 2 of Division 1, concerning confidentiality of medical information.

(f) The commissioner may adopt rules and regulations reasonably necessary to govern viatical settlements and transactions and shall adopt regulations to address those conflicts of interest that may arise, including referrals by viatical settlement brokers to viatical settlement providers who have patterns of unreasonable payments to viators. This authority includes, but is not limited to, regulation of discount rates used to determine the amount paid in exchange for assignment, transfer, sale, devise, or bequest of a death benefit under a life insurance policy, and regulations restricting the period of time within which a life or disability agent is prohibited from charging or accepting a fee or commission for viaticating a policy previously sold by that agent. In adopting those regulations, the commissioner shall consider the period of time applicable to that prohibition. The prohibition does not apply to group policies or certificates.

(g) The commissioner may, whenever he or she deems it reasonably necessary to protect the interests of the public, examine the business and affairs of any licensee or applicant for a license. The commissioner shall have the authority to order any licensee or applicant to produce any records, books, files, or other information as is reasonably necessary to ascertain whether or not the licensee or applicant is acting or has acted in violation of the law or otherwise contrary to the interests of the public. The expenses incurred in conducting any examination shall be paid by the licensee or applicant.

(h) The commissioner may investigate the conduct of any licensee, its officers, employees, agents, or any other person involved in the business of the licensee, whenever the commissioner has reason to believe that the licensee may have acted, or may be acting, in violation of the law, or otherwise contrary to the interests of the public. The commissioner may initiate an investigation on his or her own, or upon a complaint filed by any other person.

(i) The commissioner may issue orders to licensees whenever he or she determines that it is reasonably necessary to ensure or obtain compliance with this section, or Section 10113.1. This authority includes, but is not limited to, orders directing a licensee to cease and

desist in any practice that is in violation of this section, or Section 10113.1, or otherwise contrary to the interests of the public. Any licensee to which an order pursuant to this subdivision is issued may, within 15 days of receipt of that order, request a hearing at which the licensee may challenge the order.

(j) The commissioner may, after notice and a hearing at which it is determined that a licensee has violated this section or Section 10113.1 or any order issued pursuant to this section, order the licensee to pay a monetary penalty of up to ten thousand dollars (\$10,000), which may be recovered in a civil action. Any hearing conducted pursuant to this subdivision shall be in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, except that the hearing may be conducted by administrative law judges chosen pursuant to Section 11502 or appointed by the commissioner, and the commissioner shall have the powers granted therein.

(k) Each licensee shall file with the commissioner on or before March 1 of each year an annual statement in the form prescribed by the commissioner. The information that the commissioner may require in the annual statement shall include, but not be limited to, the data required to satisfy the commissioner's report to the Legislature due on or before December 1, 1994.

(l) No person who is not a resident of California may receive or maintain a license unless a written designation of an agent for service of process is filed and maintained with the commissioner. The provisions of Article 3 (commencing with Section 1600) of Chapter 4 of Part 2 shall apply to viatical settlements licensees as if they were foreign insurers, their license a certificate of authority, and the viatical settlements a policy, and the commissioner may modify the agreement set forth in Section 1604 accordingly.

(m) No person licensed pursuant to this section shall engage in any false or misleading advertising, solicitation, or practice. The provisions of Article 6 (commencing with Section 780) and Article 6.5 (commencing with Section 790) of Chapter 1 of Part 2 shall apply to viatical settlements licensees as if they were insurers, their license a certificate of authority or producer's license, and the viatical settlements a policy, and the commissioner shall liberally construe these provisions so as to protect the interests of the public.

(n) Any person who enters into a viatical settlement with a viatical settlements licensee shall have the absolute right to rescind the settlement within 15 days of execution of the settlement, and any waiver or settlement language contrary to this subdivision shall be void.

(o) A violation of this section is a misdemeanor.

SEC. 244. Section 10133.56 of the Insurance Code is amended to read:

10133.56. (a) A health insurer that enters into a contract with a professional or institutional provider to provide services at alternative rates of payment pursuant to Section 10133 shall, at the request of an insured, arrange for the completion of covered services by a terminated provider, if the insured is undergoing a course of treatment for any of the following conditions:

(1) An acute condition. An acute condition is a medical condition that involves a sudden onset of symptoms due to an illness, injury, or other medical problem that requires prompt medical attention and that has a limited duration. Completion of covered services shall be provided for the duration of the acute condition.

(2) A serious chronic condition. A serious chronic condition is a medical condition due to a disease, illness, or other medical problem or medical disorder that is serious in nature and that persists without full cure or worsens over an extended period of time or requires ongoing treatment to maintain remission or prevent deterioration. Completion of covered services shall be provided for a period of time necessary to complete a course of treatment and to arrange for a safe transfer to another provider, as determined by the health insurer in consultation with the insured and the terminated provider and consistent with good professional practice. Completion of covered services under this paragraph shall not exceed 12 months from the contract termination date.

(3) A pregnancy. A pregnancy is the three trimesters of pregnancy and the immediate postpartum period. Completion of covered services shall be provided for the duration of the pregnancy.

(4) A terminal illness. A terminal illness is an incurable or irreversible condition that has a high probability of causing death within one year or less. Completion of covered services shall be provided for the duration of a terminal illness.

(5) The care of a newborn child between birth and age 36 months. Completion of covered services under this paragraph shall not exceed 12 months from the contract termination date.

(6) Performance of a surgery or other procedure that has been recommended and documented by the provider to occur within 180 days of the contract's termination date.

(b) The insurer may require the terminated provider whose services are continued beyond the contract termination date pursuant to this section, to agree in writing to be subject to the same contractual terms and conditions that were imposed upon the provider prior to termination, including, but not limited to, credentialing, hospital privileging, utilization review, peer review, and quality assurance requirements. If the terminated provider does not agree to comply or does not comply

with these contractual terms and conditions, the insurer is not required to continue the provider's services beyond the contract termination date.

(c) Unless otherwise agreed upon between the terminated provider and the insurer or between the terminated provider and the provider group, the agreement shall be construed to require a rate and method of payment to the terminated provider, for the services rendered pursuant to this section, that is the same as the rate and method of payment for the same services while under contract with the insurer and at the time of termination. The provider shall accept the reimbursement as payment in full, and shall not bill the insured for any amount in excess of the reimbursement rate, with the exception of copayments and deductibles pursuant to subdivision (e).

(d) Notice as to how an insured may request completion of covered services pursuant to this section shall be provided in any insurer evidence of coverage and disclosure form issued after March 31, 2004. An insurer shall provide a written copy of this information to its contracting providers and provider groups. An insurer shall also provide a copy to its insureds upon request.

(e) The payment of copayments, deductibles, or other cost-sharing components by the insured during the period of completion of covered services with a terminated provider shall be the same copayments, deductibles, or other cost-sharing components that would be paid by the insured when receiving care from a provider currently contracting with the insurer.

(f) If an insurer delegates the responsibility of complying with this section to its contracting entities, the insurer shall ensure that the requirements of this section are met.

(g) For the purposes of this section:

(1) "Provider" means a person who is a licentiate as defined in Section 805 of the Business and Professions Code or a person licensed under Chapter 2 (commencing with Section 1000) of Division 2 of the Business and Professions Code.

(2) "Terminated provider" means a provider whose contract to provide services to insureds is terminated or not renewed by the insurer or one of the insurer's contracting provider groups. A terminated provider is not a provider who voluntarily leaves the insurer or contracting provider group.

(3) "Provider group" includes a medical group, independent practice association, or any other similar organization.

(h) This section shall not require an insurer or provider group to provide for the completion of covered services by a provider whose contract with the insurer or provider group has been terminated or not renewed for reasons relating to medical disciplinary cause or reason, as

defined in paragraph (6) of subdivision (a) of Section 805 of the Business and Professions Code, or fraud or other criminal activity.

(i) This section shall not require an insurer to cover services or provide benefits that are not otherwise covered under the terms and conditions of the insurer contract.

(j) The provisions contained in this section are in addition to any other responsibilities of insurers to provide continuity of care pursuant to this chapter. Nothing in this section shall preclude an insurer from providing continuity of care beyond the requirements of this section.

SEC. 245. Section 10133.8 of the Insurance Code is amended to read:

10133.8. (a) The commissioner shall, on or before January 1, 2006, promulgate regulations applicable to all individual and group policies of health insurance establishing standards and requirements to provide insureds with appropriate access to translated materials and language assistance in obtaining covered benefits. A health insurer that participates in the Healthy Families Program may assess the Healthy Families Program enrollee population separately from the remainder of its population for purposes of subparagraph (A) of paragraph (3) of subdivision (b). An insurer that chooses to separate its Healthy Families Program enrollment from the remainder of its population shall treat the Healthy Families Program population separately for purposes of determining whether subparagraph (A) of paragraph (3) of subdivision (b) is applicable and shall also treat the Healthy Families Program population separately for purposes of applying the percentage and numerical thresholds in subparagraph (A) of paragraph (3) of subdivision (b).

(b) The regulations described in subdivision (a) shall include the following:

(1) A requirement to conduct an assessment of the needs of the insured group, pursuant to this subdivision.

(2) Requirements for surveying the language preferences and assessment of linguistic needs of insureds within one year of the effective date of the regulations that permit health insurers to utilize various survey methods, including, but not limited to, the use of existing enrollment and renewal processes, newsletters, or other mailings. Health insurers shall update the linguistic needs assessment, demographic profile, and language translation requirements every three years. However, the regulations may provide that the surveys and assessments by insurers of supplemental insurance products may be conducted less frequently than three years if the commissioner determines that the results are unlikely to affect the translation requirements.

(3) Requirements for the translation of vital documents that include the following:

(A) A requirement that all vital documents, as defined pursuant to subparagraph (B), be translated into an indicated language, as follows:

(i) A health insurer with an insured population of 1,000,000 or more shall translate vital documents into the top two languages other than English as determined by the needs assessment pursuant to paragraph (2) of subdivision (b) and any additional languages when 0.75 percent or 15,000 of the insured population, whichever number is less, indicates in the needs assessment pursuant to paragraph (2) of subdivision (b) a preference for written materials in that language.

(ii) A health insurer with an insured population of 300,000 or more but less than 1,000,000 shall translate vital documents into the top one language other than English as determined by the needs assessment pursuant to paragraph (2) of subdivision (b) and any additional languages when 1 percent or 6,000 of the insured population, whichever number is less, indicates in the needs assessment pursuant to paragraph (2) of subdivision (b) a preference for written materials in that language.

(iii) A health insurer with an insured population of less than 300,000 shall translate vital documents into a language other than English when 3,000 or more or 5 percent of the insured population, whichever number is less, indicates in the needs assessment pursuant to paragraph (2) of subdivision (b) a preference for written materials in that language.

(B) Specification of vital documents produced by the insurer that are required to be translated. The specification of vital documents shall not exceed that of the Department of Health and Human Services (HHS) Office of Civil Rights (OCR) Policy Guidance (65 Federal Register 52762 (August 30, 2000)), but shall include all of the following:

(i) Applications.

(ii) Consent forms.

(iii) Letters containing important information regarding eligibility or participation criteria.

(iv) Notices pertaining to the denial, reduction, modification, or termination of services and benefits, the right to file a complaint or appeal.

(v) Notices advising limited-English-proficient persons of the availability of free language assistance and other outreach materials that are provided to insureds.

(vi) Translated documents shall not include an insurer's explanation of benefits or similar claim processing information that are sent to insureds unless the document requires a response by the insured.

(C) For those documents described in subparagraph (B) that are not standardized but contain insured specific information, health insurers shall not be required to translate the documents into the threshold languages identified by the needs assessment pursuant to paragraph (2) of subdivision (b) but rather shall include with the document a written

notice of the availability of interpretation services in the threshold languages identified by the needs assessment pursuant to paragraph (2) of subdivision (b).

(i) Upon request, the insured shall receive a written translation of those documents. The health insurer shall have up to, but not to exceed, 21 days to comply with the insured's request for a written translation. If an enrollee requests a translated document, all timeframes and deadlines requirements related to the documents that apply to the health insurer and insureds under the provisions of this chapter and under any regulations adopted pursuant to this chapter shall begin to run upon the health insurer's issuance of the translated document.

(ii) For appeals that require expedited review and response in accordance with the statutes and regulations of this chapter, the health insurer may satisfy this requirement by providing notice of the availability and access to oral interpretation services.

(D) A requirement that health insurers advise limited-English-proficient insureds of the availability of interpreter services.

(4) Standards to ensure the quality and accuracy of the written translation and that a translated document meets the same standards required for the English version of the document. The English language documents shall determine the rights and obligations of the parties, and the translated documents shall be admissible in evidence only if there is a dispute regarding a substantial difference in the material terms and conditions of the English language document and the translated document.

(5) Requirements for individual access to interpretation services.

(6) Standards to ensure the quality and timeliness of oral interpretation services provided by health insurers.

(c) In developing the regulations, standards, and requirements described in this section, the commissioner shall consider the following:

(1) Publications and standards issued by federal agencies, including the Culturally and Linguistically Appropriate Services (CLAS) in Health Care issued by the United States Department of Health and Human Services Office of Minority Health in December 2000, and the Department of Health and Human Services (HHS) Office of Civil Rights (OCR) Policy Guidance 65 (65 Federal Register 52762 (August 30, 2000)).

(2) Other cultural and linguistic requirements under state programs, including the Medi-Cal Managed Care Policy Letters, cultural and linguistic requirements imposed by the State Department of Health Services on health care service plans that contract to provide Medi-Cal managed care services, and cultural and linguistic requirements imposed

by the Managed Risk Medical Insurance Board on health insurers that contract to provide services in the Healthy Families Program.

(3) Standards adopted by other states pertaining to language assistance requirements for health insurers.

(4) Standards established by California or nationally recognized accrediting, certifying, or licensing organizations and medical and health care interpreter professional associations regarding interpretation services.

(5) Publications, guidelines, reports, and recommendations issued by state agencies or advisory committees, such as the report card to the public on the comparative performance of plans and reports on cultural and linguistic services issued by the Office of Patient Advocate and the report to the Legislature from the Task Force on Culturally and Linguistically Competent Physicians and Dentists required pursuant to Section 852 of the Business and Professions Code.

(6) Examples of best practices relating to language assistance services by health care providers and health insurers that contract for alternative rates of payment with providers, including existing practices.

(7) Information gathered from complaints to the commissioner and consumer assistance help lines regarding language assistance services.

(8) The cost of compliance and the availability of translation and interpretation services and professionals.

(9) Flexibility to accommodate variations in networks and method of service delivery. The commissioner shall allow for health insurer flexibility in determining compliance with the standards for oral and written interpretation services.

(d) In designing the regulations, the commissioner shall consider all other relevant guidelines in an effort to accomplish maximum accessibility within a cost-efficient system of indemnification. The commissioner shall seek public input from a wide range of interested parties.

(e) Services, verbal communications, and written materials provided by or developed by the health insurers that contract for alternative rates of payment with providers, shall comply with the standards developed under this section.

(f) Beginning on January 1, 2008, the department shall report biennially to the Legislature regarding health insurer compliance with the standards established by this section, including results of compliance audits made in conjunction with other audits and reviews. The department shall also utilize the reported information to make recommendations for changes that further enhance standards pursuant to this section. The commissioner shall work to ensure that the biennial reports required by this section, and the data collected for the reports, do not require duplicative or conflicting data collection with other reports

that may be required by government-sponsored programs. The commissioner may also delay or otherwise phase in implementation of the standards and requirements in recognition of costs and availability of translation and interpretation services and professionals.

(g) Nothing in this section shall prohibit government purchasers from including in their contracts additional translation or interpretation requirements, to meet the linguistic and cultural needs, beyond those set forth pursuant to this section.

SEC. 246. Section 10178.4 of the Insurance Code is amended to read:

10178.4. (a) When a contracting agent sells, leases, or transfers a health provider's contract to a payor, the rights and obligations of the provider shall be governed by the underlying contract between the health care provider and the contracting agent.

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

(1) "Contracting agent" has the meaning set forth in paragraph (2) of subdivision (d) of Section 10178.3.

(2) "Payor" has the meaning set forth in paragraph (3) of subdivision (d) of Section 10178.3.

SEC. 247. Section 10764 of the Insurance Code is amended to read:

10764. (a) On and after January 1, 2006, except as provided in subdivision (b), health insurers shall not offer or sell the following insurance policies to employers providing coverage to employees pursuant to Part 8.7 (commencing with Section 2120) of Division 2 of the Labor Code:

(1) A Medicare supplement, vision only, dental only, or Champus supplement insurance policy.

(2) A hospital indemnity, accident only, or specified disease insurance policy that pays benefits on a fixed benefit, cash-payment-only basis.

(b) However, an insurer may sell one or more of the types of policies listed in paragraph (1) or (2) of subdivision (a) if the employer has purchased or purchases concurrently health care coverage meeting the standards of Part 8.7 (commencing with Section 2120) of Division 2 of the Labor Code.

(c) If an employer, as defined in Section 2122.6 of the Labor Code, chooses to purchase more than one means of coverage, the employer may require a higher level of contribution from potential enrollees so long as one means of coverage meets the standards of this section.

(d) An employer, as defined in Section 2122.6 of the Labor Code, may purchase health care coverage that includes additional out-of-pocket expenses, such as coinsurance or deductibles. In reviewing the share-of-premium, deductibles, copayments, and other

out-of-pocket costs paid by insureds, the department shall consider those permitted by the board under Part 8.7 (commencing with Section 2120) of Division 2 of the Labor Code.

(e) Notwithstanding subdivision (b), a medium employer, as defined in Section 2122.4 of the Labor Code, may require an enrollee to contribute more than 20 percent of the cost of coverage if both of the following apply:

(1) The coverage provided by the employer includes coverage for dependents.

(2) The employer contributes an amount that exceeds 80 percent of the cost of the coverage for an individual employee.

(f) The policy includes prescription drug coverage, which shall be subject to coinsurance, deductibles, and other out-of-pocket costs consistent with subdivision (d).

SEC. 248. Section 12144 of the Insurance Code is amended to read:

12144. Motor club service is the rendering or procuring of, or reimbursement for, any of the services defined in this chapter to any person in connection with the ownership, operation, use, or maintenance of a motor vehicle, including a vacation trailer, house or otherwise, or a boat capable of ordinary transportation on a trailer and its trailer, by the person upon any of the following considerations:

(a) The person is or will become a member of the club rendering or furnishing the service.

(b) The person is or will become in any manner affiliated with the club.

(c) The person is or will become entitled to receive membership or other motor club service from the club by virtue of any agreement or understanding with any club.

This section shall not authorize a motor club to furnish any service on a reimbursement basis that constitutes the transaction of insurance. The commissioner may make reasonable rules and regulations specifying services that constitute the transaction of insurance for the purposes of this part and which may not be offered on a reimbursement basis. Rules and regulations shall be adopted, amended, and repealed in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 249. Section 12671 of the Insurance Code is amended to read:

12671. As used in this part, the following terms have the following meanings:

(a) "Group policy" means a group health insurance policy providing medical, hospital, surgical, major medical, or comprehensive medical coverage issued by an insurer, a group contract issued by a hospital service corporation, or medical, hospital, surgical, major medical, or comprehensive medical coverage otherwise provided by a policyholder

to its employees or members, except for self-insurance programs provided by employers that are not exempt from ERISA, as specified in subdivision (i). For the purposes of this part, a group policy not having an established annual renewal date shall be considered renewed on each anniversary of its effective date.

(b) "Conversion coverage" means health insurance benefits providing hospital, surgical, major medical, or comprehensive medical coverage issued to an individual under a converted policy.

(c) "Converted policy" means a policy or contract providing conversion coverage issued by an insurance company or by a hospital service corporation, or individual hospital, surgical, major medical, or comprehensive medical coverage otherwise provided by a policyholder to its employees or members.

(d) "Insurer" means the entity issuing a group policy, an individual or converted policy, a hospital service contract or an employer or employee organization otherwise providing medical, hospital, surgical, major medical, or comprehensive medical coverage to its employees or members.

(e) "Insurance" refers to health insurance, major medical, or comprehensive coverage paid by premium or contribution under a group policy, a hospital service contract, or as otherwise provided by a policyholder to its employees or members other than by self-insuring except in the case of a plan that is exempt from ERISA, but does include an employer plan that is exempt from ERISA as specified in subdivision (i). "Insurance" does not include any of the following:

(1) Coverage provided solely as an accrued liability or by reason of a disability extension.

(2) Medicare supplement insurance.

(3) Vision-only insurance.

(4) Dental-only insurance.

(5) CHAMPUS supplement insurance.

(6) Hospital indemnity insurance.

(7) Accident-only insurance.

(8) Short-term limited duration health insurance. "Short-term limited duration health insurance" means individual health insurance coverage that is offered by a licensed insurance company, intended to be used as transitional or interim coverage to remain in effect for not more than 185 days, that cannot be renewed or otherwise continued for more than one additional period of not more than 185 days, and that is not intended or marketed as health insurance coverage, a health care service plan, or a health maintenance organization subject to guaranteed issuance or guaranteed renewal pursuant to relevant state or federal law.

(9) Specified disease insurance that does not pay benefits on a fixed benefit, cash payment only basis.

(f) “Policyholder” means the holder of a group policy issued by an insurer, a holder of a group contract issued by a hospital service corporation or an employer, employee association, or other entity otherwise providing medical, hospital, surgical, major medical, or comprehensive medical coverage on a group basis to its employees or members.

(g) “Premium” means contribution or other consideration paid or payable for coverage under a group policy or converted policy.

(h) “Medicare” means Title XVIII of the United States Social Security Act as added by the Social Security Amendments of 1965 or as later amended or superseded.

(i) “Employer plan that is exempt from ERISA” means any employer plan that, pursuant to the provisions of Section 1003 of Title 29 of the United States Code, is not covered by or that is exempt from the provisions of Subchapter I (commencing with Section 1001) of Chapter 18 of Title 29 of the United States Code, except that, in the case of a governmental plan, it only includes a self-insured governmental plan as defined in subdivision (j).

(j) “Self-insured governmental plan” means a self-insured plan established or maintained for its employees by any public entity, as defined in Section 811.2 of the Government Code, that is a governmental plan as defined in subdivision (32) of Section 1002 of Title 29 of the United States Code.

SEC. 250. Section 12693.55 of the Insurance Code is amended to read:

12693.55. (a) Prior to implementation of the Health Insurance Act of 2003, the board shall, to the maximum extent permitted by federal law, ensure that persons who are either covered or eligible for the Healthy Families Program will retain the same amount, duration, and scope of benefits that they currently receive or are currently eligible to receive, including dental, vision, and mental benefits. The board shall consult with a stakeholder group that shall include all of the following:

(1) Consumer advocate groups that represent persons eligible for the Healthy Families Program.

(2) Organizations that represent persons with disabilities.

(3) Representatives of public hospitals, clinics, safety net providers, and other providers.

(4) Labor organizations that represent employees whose families include persons likely to be eligible for the Healthy Families Program.

(5) Employer organizations.

(b) The board shall develop a Healthy Families Program premium assistance program for eligible individuals as permitted under federal law to reduce state costs and maximize federal financial participation by providing health care coverage to eligible individuals through a

combination of available employer-based coverage and a wraparound benefit that covers any gap between the employer-based coverage and the benefits required by this part.

(c) The board shall do all of the following in implementing the premium assistance program:

(1) Require eligible individuals with access to employer-based coverage to enroll themselves or their families or both in the available employer-based coverage if the board finds that enrollment in that coverage is cost-effective.

(2) Promptly reimburse an eligible individual for his or her share of premium cost under the employer-based coverage, minus any contribution that an individual would be required to pay pursuant to Section 12693.43.

(d) If federal approval of a premium assistance program cannot be obtained, the board in consultation with the stakeholder group shall explore alternatives that provide that persons who are either covered or eligible for the Healthy Families Program retain the same amount, duration, and scope of benefits that they currently receive or are currently eligible to receive, including vision, dental, and mental health benefits.

SEC. 251. Section 12975.7 of the Insurance Code is amended to read:

12975.7. (a) All moneys received by the commissioner in payment of lawful fees or reimbursements pursuant to this code shall be transmitted to the Treasurer to be deposited in the State Treasury to the credit of the Insurance Fund. Unless specified in this code to be deposited in a different fund, all moneys received by the commissioner in fines, penalties, assessments, costs, or other sanctions shall be transmitted to the State Treasury for deposit in the General Fund.

(b) The money in the Insurance Fund received from the commissioner pursuant to this section is hereby appropriated to pay the refunds authorized by this code.

(c) The balance of the money in the Insurance Fund shall be used for the purposes specified in Section 12975.9, for the support of the Department of Insurance as authorized by the Budget Act, and for related cashflow needs.

SEC. 252. Section 12975.8 of the Insurance Code is amended to read:

12975.8. (a) The Insurance Fund shall, in addition to the funds specified in Section 12975.7, consist of all of the following:

(1) All moneys appropriated to the fund in accordance with law.

(2) All moneys deposited into the State Treasury from any source whatever in payment of lawful fees or reimbursements collected by the Department of Insurance.

(3) The balance remaining in the Insurance Fund at the end of the fiscal year, whether the moneys received are from an appropriation, fees, or from reimbursements for services rendered.

(b) (1) All moneys in the Insurance Fund credited to the Seismic Safety Account shall be subject to an annual appropriation each fiscal year for the purposes specified in Section 12975.9.

(2) All other moneys in the Insurance Fund shall be subject to an annual appropriation each fiscal year for the support of the Department of Insurance.

(3) If the current cash balance in the Seismic Safety Account is not adequate to fund the amount appropriated from it in the annual Budget Act, the Insurance Fund, upon enactment of the Budget Act, shall loan to the account the amount of the appropriation, and one half of this amount shall be transferred to the Seismic Safety Commission. The second half of the appropriated amount shall be transferred to the Seismic Safety Commission from the Seismic Safety Account on or before December 31 of each year. This loan shall be repaid by revenues collected pursuant to Section 12975.9.

(c) Any balance remaining in the Insurance Fund at the end of the fiscal year may be carried forward to the next succeeding fiscal year.

(d) Whenever the balance in the Insurance Fund is not sufficient to cover cashflow in the payment of authorized expenditures, the department may borrow funds as may be necessary from whatever source and under terms and conditions as may be determined by the Director of Finance. Repayment shall be made from revenues received by the department for the same fiscal year for which the loan is made.

SEC. 253. Section 98.2 of the Labor Code is amended to read:

98.2. (a) Within 10 days after service of notice of an order, decision, or award the parties may seek review by filing an appeal to the superior court, where the appeal shall be heard de novo. A copy of the appeal request shall be served upon the Labor Commissioner by the appellant. For purposes of computing the 10-day period after service, Section 1013 of the Code of Civil Procedure is applicable.

(b) Whenever an employer files an appeal pursuant to this section, the employer shall post an undertaking with the reviewing court in the amount of the order, decision, or award. The undertaking shall consist of an appeal bond issued by a licensed surety or a cash deposit with the court in the amount of the order, decision, or award. The employer shall provide written notification to the other parties and the Labor Commissioner of the posting of the undertaking. The undertaking shall be on the condition that, if any judgment is entered in favor of the employee, the employer shall pay the amount owed pursuant to the judgment, and if the appeal is withdrawn or dismissed without entry of judgment, the employer shall pay the amount owed pursuant to the order,

decision, or award of the Labor Commissioner unless the parties have executed a settlement agreement for payment of some other amount, in which case the employer shall pay the amount that the employer is obligated to pay under the terms of the settlement agreement. If the employer fails to pay the amount owed within 10 days of entry of the judgment, dismissal, or withdrawal of the appeal, or the execution of a settlement agreement, a portion of the undertaking equal to the amount owed, or the entire undertaking if the amount owed exceeds the undertaking, is forfeited to the employee.

(c) If the party seeking review by filing an appeal to the superior court is unsuccessful in the appeal, the court shall determine the costs and reasonable attorney's fees incurred by the other parties to the appeal, and assess that amount as a cost upon the party filing the appeal. An employee is successful if the court awards an amount greater than zero.

(d) If no notice of appeal of the order, decision, or award is filed within the period set forth in subdivision (a), the order, decision, or award shall, in the absence of fraud, be deemed the final order.

(e) The Labor Commissioner shall file, within 10 days of the order becoming final pursuant to subdivision (d), a certified copy of the final order with the clerk of the superior court of the appropriate county unless a settlement has been reached by the parties and approved by the Labor Commissioner. Judgment shall be entered immediately by the court clerk in conformity therewith. The judgment so entered has the same force and effect as, and is subject to all of the provisions of law relating to, a judgment in a civil action, and may be enforced in the same manner as any other judgment of the court in which it is entered. Enforcement of the judgment shall receive court priority.

(f) (1) In order to ensure that judgments are satisfied, the Labor Commissioner may serve upon the judgment debtor, personally or by first-class mail at the last known address of the judgment debtor listed with the division, a form similar to, and requiring the reporting of the same information as, the form approved or adopted by the Judicial Council for purposes of subdivision (a) of Section 116.830 of the Code of Civil Procedure to assist in identifying the nature and location of any assets of the judgment debtor.

(2) The judgment debtor shall complete the form and cause it to be delivered to the division at the address listed on the form within 35 days after the form has been served on the judgment debtor, unless the judgment has been satisfied. In case of willful failure by the judgment debtor to comply with this subdivision, the division or the judgment creditor may request the court to apply the sanctions provided in Section 708.170 of the Code of Civil Procedure.

(g) Notwithstanding subdivision (e), the Labor Commissioner may stay execution of any judgment entered upon an order, decision, or award

that has become final upon good cause appearing therefor and may impose the terms and conditions of the stay of execution. A certified copy of the stay of execution shall be filed with the clerk entering the judgment.

(h) When a judgment is satisfied in fact, other than by execution, the Labor Commissioner may, upon the motion of either party or on its own motion, order entry of satisfaction of judgment. The clerk of the court shall enter a satisfaction of judgment upon the filing of a certified copy of the order.

(i) The Labor Commissioner shall make every reasonable effort to ensure that judgments are satisfied, including taking all appropriate legal action and requiring the employer to deposit a bond as provided in Section 240.

(j) The judgment creditor, or the Labor Commissioner as assignee of the judgment creditor, is entitled to court costs and reasonable attorney's fees for enforcing the judgment that is rendered pursuant to this section.

SEC. 254. Section 141 of the Labor Code is amended to read:

141. (a) The terms of office of the members of the board shall be four years and they shall hold office until the appointment and qualification of a successor. The terms of the members of the board first appointed shall expire as follows: three members, one representative from management, one representative from labor, and one representative from occupational health, on June 1, 1974; three members, one representative from management, one representative from labor, and one representative from occupational safety, on June 1, 1975; one member June 1, 1976. The terms shall thereafter expire in the same relative order. Vacancies occurring shall be filled by appointment to the unexpired term.

(b) Each member of the board shall receive one hundred dollars (\$100) for each day of his or her actual attendance at meetings of the board, and other official business of the board, and his or her actual and necessary traveling expenses incurred in the performance of his or her duty as a member.

SEC. 255. Section 143.2 of the Labor Code is amended to read:

143.2. The board, acting as a whole, may adopt, amend, or repeal rules of practice and procedure pertaining to hearings on applications for permanent variances, variance appeals, and other matters within its jurisdiction. All rules of practice and procedure amendments thereto, or repeal thereof, shall be made in accordance with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 256. Section 2140.5 of the Labor Code is amended to read:

2140.5. The fee paid by employers shall be based on the cost of coverage for all enrollees, and, if applicable, their dependents. The fee

to be paid by each employer shall be based on the number of potential enrollees, and, if applicable, dependents, using the employer's own workforce on a date specified by the board as the basis for the allocation and other factors as the board may determine in order to provide coverage that meets the standards of this part. To assist the board in determining the fee, each employer shall provide to the board information as specified by the board regarding potential enrollees, and, if applicable, dependents. To the extent feasible, the board shall work with the Employment Development Department to facilitate the provision of information regarding the number of potential enrollees and dependents.

SEC. 257. Section 2160.1 of the Labor Code is amended to read:

2160.1. Proof of coverage shall be demonstrated by any of the following:

(a) Any health care coverage that meets the minimum requirements set forth in Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code.

(b) A group health insurance policy, as defined in subdivision (b) of Section 106 of the Insurance Code, that covers hospital, surgical, and medical care expenses, provided the maximum out-of-pocket costs for insureds do not exceed the maximum out-of-pocket costs for enrollees of health care service plans providing benefits under a preferred provider organization policy. For the purposes of this section, a group health insurance policy shall not include any of the following:

(1) Medicare supplement, vision only, dental only, and Champus supplement insurance.

(2) Hospital indemnity, accident only, or specified disease insurance that pays benefits on a fixed benefit, cash-payment-only basis.

(c) Any Taft-Hartley health and welfare fund or any other lawful collective bargaining agreement that provides for health and welfare coverage for a collective bargaining unit or other employees thereby covered.

(d) Any employer-sponsored group health plan meeting the requirements of the federal Employee Retirement Income Security Act of 1974 (29 U.S.C. Sec. 1001 et seq.), provided it meets the benefits required under subdivision (a) or (b).

(e) A multiple employer welfare arrangement established pursuant to Section 742.20 of the Insurance Code, provided that its benefits have not changed after January 1, 2004, or that it meets the benefits required under subdivision (a) or (b).

(f) Coverage provided under the Public Employees' Medical and Hospital Care Act (Part 5 (commencing with Section 22751) of Division 5 of Title 2 of the Government Code, provided it meets the benefits

required under subdivision (a) or (b) or is otherwise collectively bargained.

(g) Health coverage provided by the University of California to students of the University of California who are also employed by the University of California.

SEC. 258. Section 2190 of the Labor Code is amended to read:

2190. (a) Employers shall provide information to the board regarding potential enrollees, and, if applicable, dependents as prescribed by the board to assist the board in obtaining information necessary for enrollment. In no case shall the board require the employer to obtain from the potential enrollee information about the family income or other eligibility requirements for Medi-Cal, the Healthy Families Program, or other public programs other than that information about the enrollee's employment status otherwise known to the employer consistent with existing state and federal law and regulation.

(b) The board shall obtain enrollment information from potential enrollees and, if applicable, dependents to be covered by the program. The enrollee may voluntarily provide information sufficient to determine whether the enrollee or dependents may be eligible for coverage under Medi-Cal, the Healthy Families Program, or other public programs if the enrollee chooses to seek enrollment in those programs. The board shall use a uniform enrollment form for obtaining that information. The board shall provide information to enrollees covered by the program regarding the coverage available under the program and other programs, including Medi-Cal and the Healthy Families Program, for which enrollees or dependents may be eligible.

SEC. 259. Section 2190.2 of the Labor Code is amended to read:

2190.2. (a) The board shall provide to the State Department of Health Services information concerning the potential or continuing eligibility of enrollees and dependents in the program for Medi-Cal.

(b) (1) For those enrollees and dependents of the program who are determined to be eligible for Medi-Cal, the board shall provide the state's share of financial participation for the cost of Medi-Cal coverage provided through the program.

(2) For those enrollees and dependents of the program who are determined to be eligible for the Healthy Families Program, the board shall provide the state's share of financial participation for the cost of the Healthy Families Program coverage provided through the program.

(c) Nothing in this part shall affect the authority of the State Department of Health Services or the board to verify eligibility as required by federal law.

(d) The board shall have authority to make any necessary repayments of enrollee contributions to persons whose coverage is provided under

this section, and may also delegate to the State Department of Health Services the authority to repay those contributions.

(e) The State Department of Health Services shall seek all state plan amendments and federal approvals as necessary to maximize the amount of any federal financial participation available.

SEC. 260. Section 2200 of the Labor Code is amended to read:

2200. A contract entered into by the board pursuant to this part shall be exempt from any provision of law relating to competitive bidding, and shall be exempt from the review or approval of any division of the Department of General Services. The board shall not be required to specify the amounts encumbered for each contract, but may allocate funds to each contract based on the projected or actual enrollee enrollments to a total amount not to exceed the amount appropriated for the program including applicable contributions.

SEC. 261. Section 2210 of the Labor Code is amended to read:

2210. (a) The State Health Purchasing Fund is hereby created in the State Treasury and, notwithstanding Section 13340 of the Government Code, is continuously appropriated to the board for the purposes specified in this part.

(b) The board shall authorize the expenditure from the fund of applicable employer fees and enrollee contributions that are deposited into the fund. This shall include the authority for the board to transfer funds to two separate special deposit funds to be established by the board pursuant to this part, and administered respectively by the State Department of Health Services and the board, to be used as the state's share of financial participation for the respective costs of Medi-Cal or the Healthy Families Program coverage provided to enrollees, and, if applicable, dependents who enroll in Medi-Cal or the Healthy Families Program.

(c) Notwithstanding Section 2130.4, the board is authorized to obtain a loan from the General Fund for all necessary and reasonable expenses related to the establishment and administration of this part prior to the collection of the employer fee. The proceeds of the loan are subject to appropriation in the annual Budget Act. The board shall repay principal and interest, using the rate of interest paid under the Pooled Money Investment Account, to the General Fund no later than five years after the first year of implementation of the employer fee.

SEC. 262. 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 (4) 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.

(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. 263. Section 3600.1 of the Labor Code is amended to read:

3600.1. (a) Whenever any firefighter of the state, as defined in Section 19886 of the Government Code, is injured, dies, or is disabled from performing his or her duties as a firefighter by reason of his or her proceeding to or engaging in a fire-suppression or rescue operation, or the protection or preservation of life or property, anywhere in this state, including the jurisdiction in which he or she is employed, but is not at the time acting under the immediate direction of his or her employer, he

or she or his or her dependents, as the case may be, shall be accorded by his or her employer all of the same benefits of this division that he, she, or they would have received had that firefighter been acting under the immediate direction of his or her employer. Any injury, disability, or death incurred under the circumstances described in this section shall be deemed to have arisen out of and been sustained in the course of employment for purposes of workers' compensation and all other benefits.

(b) Nothing in this section shall be deemed to:

(1) Require the extension of any benefits to a firefighter who at the time of his or her injury, death, or disability is acting for compensation from one other than the state.

(2) Require the extension of any benefits to a firefighter employed by the state where by departmental regulation, whether now in force or hereafter enacted or promulgated, the activity giving rise to the injury, disability, or death, is expressly prohibited.

(c) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5 of the Government Code, the memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 264. Section 4610 of the Labor Code, as added by Chapter 203 of the Statutes of 2003, is amended and renumbered to read:

4611. (a) When a contracting agent sells, leases, or transfers a health provider's contract to a payor, the rights and obligations of the provider shall be governed by the underlying contract between the health care provider and the contracting agent.

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

(1) "Contracting agent" has the meaning set forth in paragraph (2) of subdivision (d) of Section 4609.

(2) "Payor" has the meaning set forth in paragraph (3) of subdivision (d) of Section 4609.

SEC. 265. Section 7304 of the Labor Code is amended to read:

7304. (a) Except as provided in subdivision (b), the division shall cause all conveyances to be inspected at least once each year. If a conveyance is found upon inspection to be in a safe condition for operation, a permit for operation for not longer than one year shall be issued by the division.

(b) If a conveyance is subject to a full maintenance service contract, the division may, after investigation and inspection, issue a permit for operation for not longer than two years.

SEC. 266. Section 186.8 of the Penal Code is amended to read:

186.8. Notwithstanding that no response or claim has been filed pursuant to Section 186.5, in all cases where property is forfeited pursuant to this chapter and, if necessary, sold by the Department of General Services or local governmental entity, the money forfeited or the proceeds of sale shall be distributed by the state or local governmental entity as follows:

(a) To the bona fide or innocent purchaser, conditional sales vendor, or holder of a valid lien, mortgage, or security interest, if any, up to the amount of his or her interest in the property or proceeds, when the court declaring the forfeiture orders a distribution to that person. The court shall endeavor to discover all those lienholders and protect their interests and may, at its discretion, order the proceeds placed in escrow for up to an additional 60 days to ensure that all valid claims are received and processed.

(b) To the Department of General Services or local governmental entity for all expenditures made or incurred by it in connection with the sale of the property, including expenditures for any necessary repairs, storage, or transportation of any property seized under this chapter.

(c) To the general fund of the state or local governmental entity, whichever prosecutes.

(d) In any case involving a violation of subdivision (b) of Section 311.2, or Section 311.3 or 311.4, in lieu of the distribution of the proceeds provided for by subdivisions (b) and (c), the proceeds shall be deposited in the county children's trust fund, established pursuant to Section 18966 of the Welfare and Institutions Code, of the county that filed the petition of forfeiture. If the county does not have a children's trust fund, the funds shall be deposited in the State Children's Trust Fund, established pursuant to Section 18969 of the Welfare and Institutions Code.

(e) In any case involving crimes against the state beverage container recycling program, in lieu of the distribution of proceeds provided in subdivision (c), the proceeds shall be deposited in the penalty account established pursuant to subdivision (d) of Section 14580 of the Public Resources Code, except that a portion of the proceeds equivalent to the cost of prosecution in the case shall be distributed to the local prosecuting entity that filed the petition of forfeiture.

SEC. 267. Section 330b of the Penal Code is amended to read:

330b. (a) It is unlawful for any person to manufacture, repair, own, store, possess, sell, rent, lease, let on shares, lend or give away, transport, or expose for sale or lease, or to offer to repair, sell, rent, lease, let on shares, lend or give away, or permit the operation, placement, maintenance, or keeping of, in any place, room, space, or building

owned, leased, or occupied, managed, or controlled by that person, any slot machine or device, as defined in this section.

It is unlawful for any person to make or to permit the making of an agreement with another person regarding any slot machine or device, by which the user of the slot machine or device, as a result of the element of hazard or chance or other unpredictable outcome, may become entitled to receive money, credit, allowance, or other thing of value or additional chance or right to use the slot machine or device, or to receive any check, slug, token, or memorandum entitling the holder to receive money, credit, allowance, or other thing of value.

(b) The limitations of subdivision (a), insofar as they relate to owning, storing, possessing, or transporting any slot machine or device, do not apply to any slot machine or device located upon or being transported by any vessel regularly operated and engaged in interstate or foreign commerce, so long as the slot machine or device is located in a locked compartment of the vessel, is not accessible for use, and is not used or operated within the territorial jurisdiction of this state.

(c) The limitations of subdivision (a) do not apply to a manufacturer's business activities that are conducted in accordance with the terms of a license issued by a tribal gaming agency pursuant to the tribal-state gaming compacts entered into in accordance with the Indian Gaming Regulatory Act (18 U.S.C. Sec. 1166 to 1168, inclusive, and 25 U.S.C. Sec. 2701 et seq.).

(d) For purposes of this section, "slot machine or device" means a machine, apparatus, or device that is adapted, or may readily be converted, for use in a way that, as a result of the insertion of any piece of money or coin or other object, or by any other means, the machine or device is caused to operate or may be operated, and by reason of any element of hazard or chance or of other outcome of operation unpredictable by him or her, the user may receive or become entitled to receive any piece of money, credit, allowance, or thing of value, or additional chance or right to use the slot machine or device, or any check, slug, token, or memorandum, whether of value or otherwise, which may be exchanged for any money, credit, allowance, or thing of value, or which may be given in trade, irrespective of whether it may, apart from any element of hazard or chance or unpredictable outcome of operation, also sell, deliver, or present some merchandise, indication of weight, entertainment, or other thing of value.

(e) Every person who violates this section is guilty of a misdemeanor.

(f) Pinball and other amusement machines or devices, which are predominantly games of skill, whether affording the opportunity of additional chances or free plays or not, are not included within the term slot machine or device, as defined in this section.

SEC. 268. Section 330.7 of the Penal Code is amended to read:

330.7. (a) It shall be a defense to any prosecution under this chapter relating to slot machines, as defined in subdivision (d) of Section 330b, if the defendant shows that the slot machine is an antique slot machine and was not operated for gambling purposes while in the defendant's possession. For the purposes of this section, the term "antique slot machine" means a slot machine that is over 25 years of age.

(b) Notwithstanding Section 335a, whenever the defense provided by subdivision (a) is offered, no slot machine seized from a defendant shall be destroyed or otherwise altered until after a final court determination that the defense is not applicable. If the defense is applicable, the machine shall be returned pursuant to provisions of law providing for the return of property.

(c) It is the purpose of this section to protect the collection and restoration of antique slot machines not presently utilized for gambling purposes because of their aesthetic interest and importance in California history.

SEC. 269. Section 597b of the Penal Code is amended to read:

597b. (a) Except as provided in subdivision (b), any person who, for amusement or gain, causes any bull, bear, or other animal, not including any dog, to fight with like kind of animal or creature, or causes any animal, including any dog, to fight with a different kind of animal or creature, or with any human being; or who, for amusement or gain, worries or injures any bull, bear, dog, or other animal, or causes any bull, bear, or other animal, not including any dog, to worry or injure each other; and any person who permits the same to be done on any premises under his or her charge or control; and any person who aids, abets, or is present at the fighting or worrying of an animal or creature, as a spectator, is guilty of a misdemeanor.

(b) Notwithstanding subdivision (a), any person who, for amusement or gain, causes any cock to fight with another cock or with a different kind of animal or creature or with any human being; or who, for amusement or gain, worries or injures any cock, or causes any cock to worry or injure another animal; and any person who permits the same to be done on any premises under his or her charge or control, and any person who aids or abets the fighting or worrying of any cock is guilty of a misdemeanor punishable by imprisonment in a county jail for a period not to exceed one year, by a fine not to exceed five thousand dollars (\$5,000), or by both that imprisonment and fine.

(c) A second or subsequent conviction of this section, Section 597c, or Section 597j is a misdemeanor punishable by imprisonment in a county jail for a period not to exceed one year, by a fine not to exceed twenty-five thousand dollars (\$25,000), or by both that imprisonment and fine, except in unusual circumstances where the interests of justice would be better served by the imposition of a lesser sentence.

(d) For the purposes of this section, aiding and abetting a violation of this section shall consist of something more than merely being present or a spectator at a place where a violation is occurring.

SEC. 270. Section 597c of the Penal Code is amended to read:

597c. (a) Except as provided in subdivision (b), whoever owns, possesses, keeps, or trains any animal with the intent that the animal shall be engaged in an exhibition of fighting; or is present at any place, building, or tenement where preparations are being made for an exhibition of the fighting of animals with the intent to be present at that exhibition; or is present at that exhibition, is guilty of a misdemeanor.

(b) Notwithstanding subdivision (a), whoever owns, possesses, keeps, or trains any cock or other bird with the intent that the cock or other bird shall be engaged in an exhibition of fighting is guilty of a crime punishable by imprisonment in a county jail for a period not to exceed one year, by a fine not to exceed five thousand dollars (\$5,000), or by both that imprisonment and fine.

(c) A second or subsequent conviction of this section, Section 597b, or Section 597j is a misdemeanor punishable by imprisonment in a county jail for a period not to exceed one year, by a fine not to exceed twenty-five thousand dollars (\$25,000), or by both that imprisonment and fine, except in unusual circumstances where the interests of justice would be better served by the imposition of a lesser sentence.

(d) This section shall not apply to an exhibition of fighting of a dog with another dog.

SEC. 271. Section 1372 of the Penal Code is amended to read:

1372. (a) (1) If the medical director of the state hospital or other facility to which the defendant is committed, or the community program director, county mental health director, or regional center director providing outpatient services, determines that the defendant has regained mental competence, the director shall immediately certify that fact to the court by filing a certificate of restoration with the court by certified mail, return receipt requested. For purposes of this section, the date of filing shall be the date on the return receipt.

(2) The court's order committing an individual to a state hospital or other treatment facility pursuant to Section 1370 shall include direction that the sheriff shall redeliver the patient to the court without any further order from the court upon receiving from the state hospital or treatment facility a copy of the certificate of restoration.

(3) The defendant shall be returned to the committing court in the following manner:

(A) A patient who remains confined in a state hospital or other treatment facility shall be redelivered to the sheriff of the county from which the patient was committed. The sheriff shall immediately return

the person from the state hospital or other treatment facility to the court for further proceedings.

(B) The patient who is on outpatient status shall be returned by the sheriff to court through arrangements made by the outpatient treatment supervisor.

(C) In all cases, the patient shall be returned to the committing court no later than 10 days following the filing of a certificate of restoration. The state shall only pay for 10 hospital days for patients following the filing of a certificate of restoration of competency. The State Department of Mental Health shall report to the fiscal and appropriate policy committees of the Legislature on an annual basis in February, on the number of days that exceed the 10-day limit prescribed in this subparagraph. This report shall include, but not be limited to, a data sheet that itemizes by county the number of days that exceed this 10-day limit during the preceding year.

(b) If the defendant becomes mentally competent after a conservatorship has been established pursuant to the applicable provisions of the Lanterman-Petris-Short Act, Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code, and Section 1370, the conservator shall certify that fact to the sheriff and district attorney of the county in which the defendant's case is pending, defendant's attorney of record, and the committing court.

(c) When a defendant is returned to court with a certification that competence has been regained, the court shall notify either the community program director, the county mental health director, or the regional center director and the Director of Developmental Services, as appropriate, of the date of any hearing on the defendant's competence and whether or not the defendant was found by the court to have recovered competence.

(d) If the committing court approves the certificate of restoration to competence as to a person in custody, the court shall hold a hearing to determine whether the person is entitled to be admitted to bail or released on own recognizance status pending conclusion of the proceedings. If the superior court approves the certificate of restoration to competence regarding a person on outpatient status, unless it appears that the person has refused to come to court, that person shall remain released either on own recognizance status, or, in the case of a developmentally disabled person, either on the defendant's promise or on the promise of a responsible adult to secure the person's appearance in court for further proceedings. If the person has refused to come to court, the court shall set bail and may place the person in custody until bail is posted.

(e) A defendant subject to either subdivision (a) or (b) who is not admitted to bail or released under subdivision (d) may, at the discretion of the court, upon recommendation of the director of the facility where

the defendant is receiving treatment, be returned to the hospital or facility of his or her original commitment or other appropriate secure facility approved by the community program director, the county mental health director, or the regional center director. The recommendation submitted to the court shall be based on the opinion that the person will need continued treatment in a hospital or treatment facility in order to maintain competence to stand trial or that placing the person in a jail environment would create a substantial risk that the person would again become incompetent to stand trial before criminal proceedings could be resumed.

(f) Notwithstanding subdivision (e), if a defendant is returned by the court to a hospital or other facility for the purpose of maintaining competency to stand trial and that defendant is already under civil commitment to that hospital or facility from another county pursuant to the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code) or as a developmentally disabled person committed pursuant to Article 2 (commencing with Section 6500) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, the costs of housing and treating the defendant in that facility following return pursuant to subdivision (e) shall be the responsibility of the original county of civil commitment.

SEC. 272. Section 1463.010 of the Penal Code is amended to read:

1463.010. The enforcement of court orders is recognized as an important element of collections efforts. The prompt, efficient, and effective collection of court-ordered fees, fines, forfeitures, penalties, and assessments ensures the appropriate respect for court orders. To provide for this prompt, efficient, and effective collection:

(a) The Judicial Council shall adopt guidelines for a comprehensive program concerning the collection of moneys owed for fees, fines, forfeitures, penalties, and assessments imposed by court order after considering the recommendations of the collaborative court-county working group established pursuant to subdivision (b). As part of its guidelines, the Judicial Council may establish standard agreements for entities to provide collection services. As part of its guidelines, the Judicial Council shall include provisions that promote competition by and between entities in providing collection services to courts and counties. The Judicial Council may delegate to the Administrative Director of the Courts the implementation of the aspects of this program to be carried out at the state level.

(b) The Judicial Council shall establish a collaborative court-county working group on collections. The California State Association of Counties shall appoint eight members of the working group. The Judicial Council shall appoint four court executives, two judges, and two employees of the Administrative Office of the Courts as members of the

working group, and shall designate a chair of the working group. The working group shall, among other activities, survey courts and counties regarding current collection efforts and evaluate a variety of methods to enhance future collections, including, but not limited to, referring accounts to private agencies for collection, develop a strategy for court and county cooperation in collection plan discussions, consult with groups other than courts and counties that are affected by collection programs, and evaluate and make recommendations to the Judicial Council concerning current and future collection methods.

(c) The courts and counties shall maintain the collection program which was in place on January 1, 1996, unless otherwise agreed to by the court and county. The program may wholly or partially be staffed and operated within the court itself, may be wholly or partially staffed and operated by the county, or may be wholly or partially contracted with a third party. In carrying out this collection program, each superior court and county shall develop a cooperative plan to implement the Judicial Council guidelines. In the event that a court and a county are unwilling or unable to enter into a cooperative plan pursuant to this section, the court or the county may request the continuation of negotiations with mediation assistance as mutually agreed upon and provided by the Administrative Director of the Courts and the California Association of Counties.

(d) Each superior court and county shall jointly report to the Judicial Council, as provided by the Judicial Council and not more than once a year, on the effectiveness of the cooperative superior court and county collection program. The Judicial Council shall report to the Legislature, as appropriate, on the effectiveness of the program.

(e) The Judicial Council may, when the efficiency and effectiveness of the collection process may be improved, facilitate a joint collection program between superior courts, between counties, or between superior courts and counties.

(f) The Judicial Council may establish, by court rule, a program providing for the suspension and nonrenewal of a business and professional license if the holder of the license has unpaid fees, fines, forfeitures, penalties, and assessments imposed upon them under a court order. The Judicial Council may provide that some or all of the superior courts or counties participate in the program. Any program established by the Judicial Council shall ensure that the licensee receives adequate and appropriate notice of the proposed suspension or nonrenewal of his or her license and has an opportunity to contest the suspension or nonrenewal. The opportunity to contest may not require a court hearing.

(g) Notwithstanding any other provision of law, the Judicial Council, after consultation with the Franchise Tax Board with respect to collections under Section 19280 of the Revenue and Taxation Code, may

provide for an amnesty program involving the collection of outstanding fees, fines, forfeitures, penalties, and assessments, applicable either statewide or within one or more counties. The amnesty program shall provide that some or all of the interest or collections costs imposed on outstanding fees, fines, forfeitures, penalties, and assessments may be waived if the remaining amounts due are paid within the amnesty period.

SEC. 273. Section 6245 of the Penal Code is amended to read:

6245. In submitting a proposal, a county's plan shall include at least all of the following elements that meet standards established by the board in its request for proposal, and demonstrate that its program will have strong links to the community organizations involved in providing those elements, and that those community organizations have helped in designing the proposal:

- (a) A rigorous program of substance abuse testing.
- (b) A drug-free environment.
- (c) Substance abuse treatment.
- (d) Employment services.
- (e) Basic education services.
- (f) Mental health services and family counseling.
- (g) A strong linkage to probation and parole.

SEC. 274. Section 11171 of the Penal Code is amended 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) The agency or agencies designated by the Director of Finance pursuant to Section 13820 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 protocols for victims of child physical abuse or neglect using as a model the form and guidelines developed pursuant to Section 13823.5.

(c) The forms 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.

(d) The forms shall become part of the patient's medical record pursuant to guidelines established by the advisory committee of the agency or agencies designated by the Director of Finance pursuant to Section 13820 and subject to the confidentiality laws pertaining to the release of a medical forensic examination records.

(e) The forms shall be made accessible for use on the Internet.

SEC. 275. Section 11502 of the Penal Code is amended to read:

11502. (a) Criteria for selection of education, training, and research programs for local public prosecutors and public defenders shall be developed by the agency or agencies designated by the Director of Finance pursuant to Section 13820 in consultation with an advisory group entitled the Prosecutors and Public Defenders Education and Training Advisory Committee.

(b) The Prosecutors and Public Defenders Education and Training Advisory Committee shall be composed of six local public prosecutors and six local public defender representatives, all of whom are appointed by the executive director of the agency or agencies designated by the Director of Finance pursuant to Section 13820, who shall provide staff services to the advisory committee. In appointing the members of the committee, the executive director shall invite the Attorney General, the State Public Defender, the Speaker of the Assembly, and the Senate President pro Tempore to participate as ex officio members of the committee.

(c) The agency or agencies designated by the Director of Finance pursuant to Section 13820, in consultation with the advisory committee,

shall develop specific guidelines including criteria for selection of organizations to provide education, training, and research services.

(d) In determining the equitable allocation of funds between prosecution and defense functions, the agency or agencies designated by the Director of Finance pursuant to Section 13820 and the advisory committee shall give consideration to the amount of local government expenditures on a statewide basis for the support of those functions.

(e) The administration of the overall program shall be performed by the agency or agencies designated by the Director of Finance pursuant to Section 13820. The agency or agencies so designated may, out of any appropriation for this program, expend an amount not to exceed 7.5 percent for any fiscal year for those purposes.

(f) No funds appropriated pursuant to this title shall be used to support a legislative advocate.

(g) To the extent necessary to meet the requirements of the State Bar of California relating to certification of training for legal specialists, the executive director shall ensure that, where appropriate, all programs funded under this title are open to all members of the State Bar of California. The program guidelines established pursuant to subdivision (c) shall provide for the reimbursement of costs for all participants deemed eligible by the agency or agencies designated by the Director of Finance pursuant to Section 13820, in conjunction with the Legal Training Advisory Committee, by means of course attendance.

SEC. 276. Section 12021 of the Penal Code is amended to read:

12021. (a) (1) Any person who has been convicted of a felony under the laws of the United States, of the State of California, or any other state, government, or country, or of an offense enumerated in subdivision (a), (b), or (d) of Section 12001.6, or who is addicted to the use of any narcotic drug, who owns, purchases, receives, or has in his or her possession or under his or her custody or control any firearm is guilty of a felony.

(2) Any person who has two or more convictions for violating paragraph (2) of subdivision (a) of Section 417 and who owns, purchases, receives, or has in his or her possession or under his or her custody or control any firearm is guilty of a felony.

(b) Notwithstanding subdivision (a), any person who has been convicted of a felony or of an offense enumerated in Section 12001.6, when that conviction results from certification by the juvenile court for prosecution as an adult in an adult court under Section 707 of the Welfare and Institutions Code, who owns or has in his or her possession or under his or her custody or control any firearm is guilty of a felony.

(c) (1) Except as provided in subdivision (a) or paragraph (2) of this subdivision, any person who has been convicted of a misdemeanor violation of Section 71, 76, 136.1, 136.5, or 140, subdivision (d) of

Section 148, Section 171b, 171c, 171d, 186.28, 240, 241, 242, 243, 244.5, 245, 245.5, 246.3, 247, 273.5, 273.6, 417, 417.1, 417.2, 417.6, 422, 626.9, 646.9, 12023, or 12024, subdivision (b) or (d) of Section 12034, Section 12040, subdivision (b) of Section 12072, subdivision (a) of former Section 12100, Section 12220, 12320, or 12590, or Section 8100, 8101, or 8103 of the Welfare and Institutions Code, any firearm-related offense pursuant to Sections 871.5 and 1001.5 of the Welfare and Institutions Code, or of the conduct punished in paragraph (3) of subdivision (g) of Section 12072, and who, within 10 years of the conviction, owns, purchases, receives, or has in his or her possession or under his or her custody or control, any firearm is guilty of a public offense, which shall be punishable by imprisonment in a county jail not exceeding one year or in the state prison, by a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine. The court, on forms prescribed by the Department of Justice, shall notify the department of persons subject to this subdivision. However, the prohibition in this paragraph may be reduced, eliminated, or conditioned as provided in paragraph (2) or (3).

(2) Any person employed as a peace officer described in Section 830.1, 830.2, 830.31, 830.32, 830.33, or 830.5 whose employment or livelihood is dependent on the ability to legally possess a firearm, who is subject to the prohibition imposed by this subdivision because of a conviction under Section 273.5, 273.6, or 646.9, may petition the court only once for relief from this prohibition. The petition shall be filed with the court in which the petitioner was sentenced. If possible, the matter shall be heard before the same judge who sentenced the petitioner. Upon filing the petition, the clerk of the court shall set the hearing date and shall notify the petitioner and the prosecuting attorney of the date of the hearing. Upon making each of the following findings, the court may reduce or eliminate the prohibition, impose conditions on reduction or elimination of the prohibition, or otherwise grant relief from the prohibition as the court deems appropriate:

(A) Finds by a preponderance of the evidence that the petitioner is likely to use a firearm in a safe and lawful manner.

(B) Finds that the petitioner is not within a prohibited class as specified in subdivision (a), (b), (d), (e), or (g) or Section 12021.1, and the court is not presented with any credible evidence that the petitioner is a person described in Section 8100 or 8103 of the Welfare and Institutions Code.

(C) Finds that the petitioner does not have a previous conviction under this subdivision no matter when the prior conviction occurred.

In making its decision, the court shall consider the petitioner's continued employment, the interest of justice, any relevant evidence, and the totality of the circumstances. The court shall require, as a

condition of granting relief from the prohibition under this section, that the petitioner agree to participate in counseling as deemed appropriate by the court. Relief from the prohibition shall not relieve any other person or entity from any liability that might otherwise be imposed. It is the intent of the Legislature that courts exercise broad discretion in fashioning appropriate relief under this paragraph in cases in which relief is warranted. However, nothing in this paragraph shall be construed to require courts to grant relief to any particular petitioner. It is the intent of the Legislature to permit persons who were convicted of an offense specified in Section 273.5, 273.6, or 646.9 to seek relief from the prohibition imposed by this subdivision.

(3) Any person who is subject to the prohibition imposed by this subdivision because of a conviction of an offense prior to that offense being added to paragraph (1) may petition the court only once for relief from this prohibition. The petition shall be filed with the court in which the petitioner was sentenced. If possible, the matter shall be heard before the same judge that sentenced the petitioner. Upon filing the petition, the clerk of the court shall set the hearing date and notify the petitioner and the prosecuting attorney of the date of the hearing. Upon making each of the following findings, the court may reduce or eliminate the prohibition, impose conditions on reduction or elimination of the prohibition, or otherwise grant relief from the prohibition as the court deems appropriate:

(A) Finds by a preponderance of the evidence that the petitioner is likely to use a firearm in a safe and lawful manner.

(B) Finds that the petitioner is not within a prohibited class as specified in subdivision (a), (b), (d), (e), or (g) or Section 12021.1, and the court is not presented with any credible evidence that the petitioner is a person described in Section 8100 or 8103 of the Welfare and Institutions Code.

(C) Finds that the petitioner does not have a previous conviction under this subdivision, no matter when the prior conviction occurred.

In making its decision, the court may consider the interest of justice, any relevant evidence, and the totality of the circumstances. It is the intent of the Legislature that courts exercise broad discretion in fashioning appropriate relief under this paragraph in cases in which relief is warranted. However, nothing in this paragraph shall be construed to require courts to grant relief to any particular petitioner.

(4) Law enforcement officials who enforce the prohibition specified in this subdivision against a person who has been granted relief pursuant to paragraph (2) or (3) shall be immune from any liability for false arrest arising from the enforcement of this subdivision unless the person has in his or her possession a certified copy of the court order that granted the person relief from the prohibition. This immunity from liability shall

not relieve any person or entity from any other liability that might otherwise be imposed.

(d) (1) Any person who, as an express condition of probation, is prohibited or restricted from owning, possessing, controlling, receiving, or purchasing a firearm and who owns, purchases, receives, or has in his or her possession or under his or her custody or control, any firearm but who is not subject to subdivision (a) or (c), is guilty of a public offense, which shall be punishable by imprisonment in a county jail not exceeding one year or in the state prison, by a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine. The court, on forms provided by the Department of Justice, shall notify the department of persons subject to this subdivision. The notice shall include a copy of the order of probation and a copy of any minute order or abstract reflecting the order and conditions of probation.

(2) For any person who is subject to subdivision (a), (b), or (c), the court shall, at the time judgment is imposed, provide on a form supplied by the Department of Justice, a notice to the defendant prohibited by this section from owning, purchasing, receiving, possessing, or having under his or her custody or control, any firearm. The notice shall inform the defendant of the prohibition regarding firearms and include a form to facilitate the transfer of firearms. Failure to provide the notice shall not be a defense to a violation of this section.

(e) Any person who (1) is alleged to have committed an offense listed in subdivision (b) of Section 707 of the Welfare and Institutions Code, an offense described in subdivision (b) of Section 1203.073, or any offense enumerated in paragraph (1) of subdivision (c), or any offense described in subdivision (a) of Section 12025, subdivision (a) of Section 12031, or subdivision (a) of Section 12034, and (2) is subsequently adjudged a ward of the juvenile court within the meaning of Section 602 of the Welfare and Institutions Code because the person committed an offense listed in subdivision (b) of Section 707 of the Welfare and Institutions Code, an offense described in subdivision (b) of Section 1203.073, or any offense enumerated in paragraph (1) of subdivision (c) shall not own, or have in his or her possession or under his or her custody or control, any firearm until the age of 30 years. A violation of this subdivision shall be punishable by imprisonment in a county jail not exceeding one year or in the state prison, by a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine. The juvenile court, on forms prescribed by the Department of Justice, shall notify the department of persons subject to this subdivision. Notwithstanding any other law, the forms required to be submitted to the department pursuant to this subdivision may be used to determine eligibility to acquire a firearm.

(f) Subdivision (a) shall not apply to a person who has been convicted of a felony under the laws of the United States unless either of the following criteria is satisfied:

(1) Conviction of a like offense under California law can only result in imposition of felony punishment.

(2) The defendant was sentenced to a federal correctional facility for more than 30 days, or received a fine of more than one thousand dollars (\$1,000), or received both punishments.

(g) (1) Every person who purchases or receives, or attempts to purchase or receive, a firearm knowing that he or she is prohibited from doing so by a temporary restraining order or injunction issued pursuant to Section 527.6 or 527.8 of the Code of Civil Procedure, a protective order issued pursuant to Section 136.2 or 646.91 of this code, or by a protective order issued pursuant to Section 15657.03 of the Welfare and Institutions Code, is guilty of a public offense, which shall be punishable by imprisonment in a county jail not exceeding one year or in the state prison, by a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine.

(2) Every person who owns or possesses a firearm knowing that he or she is prohibited from doing so by a temporary restraining order or injunction issued pursuant to Section 527.6 or 527.8 of the Code of Civil Procedure, a protective order as defined in Section 6218 of the Family Code, a protective order issued pursuant to Section 136.2 or 646.91 of this code, or by a protective order issued pursuant to Section 15657.03 of the Welfare and Institutions Code, is guilty of a public offense, which shall be punishable by imprisonment in a county jail not exceeding one year, by a fine not exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine.

(3) Judicial Council shall provide notice on all protective orders that the respondent is prohibited from owning, possessing, purchasing, receiving, or attempting to purchase or receive a firearm while the protective order is in effect. The order shall also state that the firearm shall be relinquished to the local law enforcement agency for that jurisdiction or sold to a licensed gun dealer, and that proof of surrender or sale shall be filed within a specified time of receipt of the order. The order shall state the penalties for a violation of the prohibition. The order shall also state on its face the expiration date for relinquishment.

(4) If probation is granted upon conviction of a violation of this subdivision, the court shall impose probation consistent with the provisions of Section 1203.097.

(h) (1) A violation of subdivision (a), (b), (c), (d), or (e) is justifiable where all of the following conditions are met:

(A) The person found the firearm or took the firearm from a person who was committing a crime against him or her.

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

(C) If the firearm was transported to a law enforcement agency, it was transported in accordance with paragraph (18) of subdivision (a) of Section 12026.2.

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

(2) Upon the trial for violating subdivision (a), (b), (c), (d), or (e), the trier of fact shall determine whether the defendant was acting within the provisions of the exemption created by this subdivision.

(3) The defendant has the burden of proving by a preponderance of the evidence that he or she comes within the provisions of the exemption created by this subdivision.

(i) Subject to available funding, the Attorney General, working with the State Judicial Council, the California Alliance Against Domestic Violence, prosecutors, and law enforcement, probation, and parole officers, shall develop a protocol for the implementation of the provisions of this section. The protocol shall be designed to facilitate the enforcement of restrictions on firearm ownership, including provisions for giving notice to defendants who are restricted, provisions for informing those defendants of the procedures by which defendants shall dispose of firearms when required to do so, provisions explaining how defendants shall provide proof of the lawful disposition of firearms, and provisions explaining how defendants may obtain possession of seized firearms when legally permitted to do so pursuant to this section or any other provision of law. The protocol shall be completed on or before January 1, 2005.

SEC. 277. Section 13864 of the Penal Code is amended to read:

13864. There is hereby created, in the agency or agencies designated by the Director of Finance pursuant to Section 13820, the Comprehensive Alcohol and Drug Prevention Education component of the Suppression of Drug Abuse in Schools Program in public elementary schools in grades 4 to 6, inclusive. Notwithstanding Section 13861 or any other provision in this code, all Comprehensive Alcohol and Drug Prevention Education component funds made available to the agency or agencies designated by the Director of Finance pursuant to Section 13820 in accordance with the Classroom Instructional Improvement and Accountability Act shall be administered by and disbursed to county superintendents of schools in this state by the executive director of the agency or agencies designated by the Director of Finance pursuant to Section 13820. All applications for that funding shall be reviewed and

evaluated by the agency or agencies designated by the Director of Finance pursuant to Section 13820, in consultation with the State Department of Alcohol and Drug Programs and the State Department of Education.

(a) The executive director is authorized to allocate and award funds to county department superintendents of schools for allocation to individual school districts or to a consortium of two or more school districts. Applications funded under this section shall comply with the criteria, policies, and procedures established under subdivision (b) of this section.

(b) As a condition of eligibility for the funding described in this section, the school district or consortium of school districts shall have entered into an agreement with a local law enforcement agency to jointly implement a comprehensive alcohol and drug abuse prevention, intervention, and suppression program developed by the agency or agencies designated by the Director of Finance pursuant to Section 13820, in consultation with the State Department of Alcohol and Drug Programs and the State Department of Education, containing all of the following components:

(1) A standardized age-appropriate curriculum designed for pupils in grades 4 to 6, inclusive, specifically tailored and sensitive to the socioeconomic and ethnic characteristics of the target pupil population. Although new curricula shall not be required to be developed, existing curricula may be modified and adapted to meet local needs. The elements of the standardized comprehensive alcohol and drug prevention education program curriculum shall be defined and approved by the Governor's Policy Council on Drug and Alcohol Abuse, as established by Executive Order # D-70-80.

(2) A planning process that shall include both assessment of the school district's characteristics, resources and the extent of problems related to juvenile drug abuse, and input from local law enforcement agencies.

(3) A school district governing board policy that provides for a coordinated intervention system that, at a minimum, includes procedures for identification, intervention, and referral of at-risk alcohol- and drug-involved youth, and identifies the roles and responsibilities of law enforcement, school personnel, parents, and pupils.

(4) Early intervention activities that include, but are not limited to, the identification of pupils who are high risk or have chronic drug abuse problems, assessment, and referral for appropriate services, including ongoing support services.

(5) Parent education programs to initiate and maintain parental involvement, with an emphasis for parents of at-risk pupils.

(6) Staff and in-service training programs, including both in-depth training for the core team involved in providing program services and general awareness training for all school faculty and administrative, credentialed, and noncredentialed school personnel.

(7) In-service training programs for local law enforcement officers.

(8) School, law enforcement, and community involvement to ensure coordination of program services. Pursuant to that coordination, the school district or districts and other local agencies are encouraged to use a single community advisory committee or task force for drug, alcohol, and tobacco abuse prevention programs, as an alternative to the creation of a separate group for that purpose under each state or federally funded program.

(c) The application of the county superintendent of schools shall be submitted to the agency or agencies designated by the Director of Finance pursuant to Section 13820. Funds made available to the agency or agencies designated by the Director of Finance pursuant to Section 13820 for allocation under this section are intended to enhance, but shall not supplant, local funds that would, in the absence of the Comprehensive Alcohol and Drug Prevention Education component, be made available to prevent, intervene in, or suppress drug abuse among schoolage children. For districts that are already implementing a comprehensive drug abuse prevention program for pupils in grades 4 to 6, inclusive, the county superintendent shall propose the use of the funds for drug prevention activities in school grades other than 4 to 6, inclusive, compatible with the program components of this section. The expenditure of funds for that alternative purpose shall be approved by the executive director.

(1) Unless otherwise authorized by the agency or agencies designated by the Director of Finance pursuant to Section 13820, each county superintendent of schools shall be the fiscal agent for any Comprehensive Alcohol and Drug Prevention Education component award, and shall be responsible for ensuring that each school district within that county receives the allocation prescribed by the agency or agencies designated by the Director of Finance pursuant to Section 13820. Each county superintendent shall develop a countywide plan that complies with program guidelines and procedures established by the agency or agencies designated by the Director of Finance pursuant to Section 13820 pursuant to subdivision (d). A maximum of 5 percent of the county's allocation may be used for administrative costs associated with the project.

(2) Each county superintendent of schools shall establish and chair a local coordinating committee to assist the superintendent in developing and implementing a countywide implementation plan. This committee shall include the county drug administrator, law enforcement executives,

school district governing board members and administrators, school faculty, parents, and drug prevention and intervention program executives selected by the superintendent and approved by the county board of supervisors.

(d) The Executive Director of the agency or agencies designated by the Director of Finance pursuant to Section 13820, in consultation with the State Department of Alcohol and Drug Programs and the State Department of Education, shall prepare and issue guidelines and procedures for the Comprehensive Alcohol and Drug Prevention Education component consistent with this section.

(e) The Comprehensive Alcohol and Drug Prevention Education component guidelines shall set forth the terms and conditions upon which the agency or agencies designated by the Director of Finance pursuant to Section 13820 is prepared to award grants of funds pursuant to this section. The guidelines shall not constitute rules, regulations, orders, or standards of general application.

(f) Funds awarded under the Comprehensive Alcohol and Drug Prevention Education Program shall not be subject to Section 10318 of the Public Contract Code.

(g) Funds available pursuant to Item 8100-111-001 and Provision 1 of Item 8100-001-001 of the Budget Act of 1989, or the successor provision of the appropriate Budget Act, shall be allocated to implement this section.

(h) The executive director of the agency or agencies designated by the Director of Finance pursuant to Section 13820 shall collaborate, to the extent possible, with other state agencies that administer drug, alcohol, and tobacco abuse prevention education programs to streamline and simplify the process whereby local educational agencies apply for drug, alcohol, and tobacco education funding under this section and under other state and federal programs. The agency or agencies designated by the Director of Finance pursuant to Section 13820, the State Department of Alcohol and Drug Programs, the State Department of Education, and other state agencies, to the extent possible, shall develop joint policies and collaborate planning in the administration of drug, alcohol, and tobacco abuse prevention education programs.

SEC. 278. Section 858 of the Probate Code is amended to read:

858. If a proceeding has been brought under this part by a conservator on behalf of a conservatee, or by a guardian on behalf of a minor, and the conservatee or minor dies during the pendency of the proceeding, the personal representative of the conservatee or minor's estate or other successor in interest may proceed with the matter and the existing proceeding shall not be dismissed on account of the death of the conservatee or minor.

SEC. 279. Section 6242 of the Probate Code is amended to read:

6242. (a) Except as specifically provided in this chapter, a California statutory will shall include only the texts of the property disposition clauses and the mandatory clauses as they exist on the day the California statutory will is executed.

(b) Sections 6205, 6206, and 6227 apply to every California statutory will, including those executed before January 1, 1985. Section 6211 applies only to California statutory wills executed after July 1, 1991.

(c) Notwithstanding Section 6222, and except as provided in subdivision (b), a California statutory will is governed by the law that applied prior to January 1, 1992, if the California statutory will is executed on a form that (1) was prepared for use under former Sections 56 to 56.14, inclusive, or former Sections 6200 to 6248, inclusive, of the Probate Code, and (2) satisfied the requirements of law that applied prior to January 1, 1992.

(d) A California statutory will does not fail to satisfy the requirements of subdivision (a) merely because the will is executed on a form that incorporates the mandatory clauses of Section 6241 that refer to former Section 1120.2. If the will incorporates the mandatory clauses with a reference to former Section 1120.2, the trustee has the powers listed in Article 2 (commencing with Section 16220) of Chapter 2 of Part 4 of Division 9.

SEC. 280. Section 19403 of the Probate Code is amended to read:

19403. Nothing in this chapter affects the rights of a purchaser or encumbrancer of property in good faith and for value from a person who is personally liable under this section.

SEC. 281. Section 20114.5 of the Probate Code is amended to read:

20114.5. (a) As used in this section:

(1) A reference to Section 4980A of the Internal Revenue Code means Section 4980A of the federal Internal Revenue Code of 1986 as amended (26 U.S.C. Sec. 4980A) and also means former Section 4981A of the federal Internal Revenue Code of 1986.

(2) "Excess retirement accumulation" has the meaning given it in paragraph (3) of subsection (d) of Section 4980A.

(b) If the federal estate tax is increased under subsection (d) of Section 4980A of the Internal Revenue Code, the amount of the increase shall be a charge against the persons who receive the excess retirement accumulation that gives rise to the increase, and shall be equitably prorated among all persons who receive interests in qualified employer plans and individual retirement plans to which the excess retirement accumulation is attributable.

SEC. 282. 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 in subdivision (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.

SEC. 283. Section 6106.5 of the Public Contract Code is amended to read:

6106.5. (a) "State agency," as used in this section, means those departments defined in Section 10106 of the Public Contract Code.

(b) "Contractor," as used in this section, means "Firm," "Architectural, landscape architectural, engineering, environmental, and land surveying services," "Construction project management," and "Environmental services" as defined in Section 4525 of the Government Code.

(c) State agencies shall include a provision in solicitations and in contracts, if the estimated amount to be retained exceeds ten thousand dollars (\$10,000), and the retention continues for a period of 60 days beyond the completion of phased services, to permit, upon written request and the expense of the contractor, the payment of retentions earned directly to a state or federally chartered bank in this state, as the escrow agent. The contractor may direct the investment of the payments into securities, pursuant to paragraph (d), and the contractor shall receive the interest earned on the investments. Upon satisfactory completion of the contract, the contractor shall receive from the escrow agent all securities, interest, and payments received by the escrow agent from the owner, pursuant to the terms of this section. State agencies, relative to contracts entered into prior to the enactment of this section, upon written request of the contractor, and subject to the approval of the state agency, may utilize the provisions of this section.

(d) Securities eligible for investment under this section shall include those listed in Section 16430 of the Government Code, interest-bearing demand deposit accounts, or any other investment mutually agreed to by the contractor and the state agency.

(e) (1) Any contractor who elects to receive interest on moneys withheld in retention by a state agency shall, at the request of any

subcontractor, make that option available to the subcontractor regarding any moneys withheld in retention by the contractor from the subcontractor. If the contractor elects to receive interest on any moneys withheld in retention by a state agency, then the subcontractor shall receive the identical rate of interest received by the contractor on any retention moneys withheld from the subcontractor by the contractor, less any actual pro rata costs associated with administering and calculating that interest. In the event that the interest rate is a fluctuating rate, the rate for the subcontractor shall be determined by calculating the interest rate paid during the time that retentions were withheld from the subcontractor. If the contractor elects to substitute securities in lieu of retention, then, by mutual consent of the contractor and subcontractor, the subcontractor may substitute securities in exchange for the release of moneys held in retention by the contractor.

(2) This subdivision shall apply only to those subcontractors performing more than 5 percent of the contractor’s total fee.

(3) No contractor shall require any subcontractor to waive any provision of this section.

(f) An escrow agreement used pursuant to this section shall be null, void, and unenforceable unless it is substantially similar to the following form:

ESCROW AGREEMENT FOR SECURITY DEPOSITS

This Escrow Agreement is made and entered into by and between

_____ whose address is _____
 hereinafter called “owner,” _____
 whose address is _____
 hereinafter called “contractor,” and _____
 whose address is _____
 hereinafter called “escrow agent.”

(1) Pursuant to Section 6106.5 of the Public Contract Code of the State of California, upon written request of the contractor, the owner shall make payments of retention earnings required to be withheld by the owner pursuant to the professional consulting services agreement entered into between the owner and contractor for ____ in the amount of ____ dated ____ hereafter referred to as the “contract.”

(2) When the owner makes payment of retentions earned directly to the escrow agent, the escrow agent shall hold them for the benefit of the contractor until such time as the escrow created under this contract is terminated. The contractor may direct the investment of the payments

into securities pursuant to Section 6106.5(d) of the Public Contract Code. All terms and conditions of this agreement and the rights and responsibilities of the parties shall be equally applicable and binding when the owner pays the escrow agent directly.

(3) The contractor shall be responsible for paying all fees for the expenses incurred by the escrow agent in administering the escrow account. These expenses and payment terms shall be determined by the contractor and escrow agent.

(4) The contractor shall have the right to withdraw all or any part of the principal or interest in the escrow account only by written notice to the escrow agent accompanied by written authorization from the owner to the escrow agent that the owner consents to the withdrawal of the amount sought to be withdrawn by contractor.

(5) The owner shall have a right to draw upon the escrow account in the event of default by the contractor. Upon seven days' written notice to the escrow agent from the owner of the default, the escrow agent shall immediately distribute the cash as instructed by the owner.

(6) Upon receipt of written notification from the owner certifying that the contract is final and complete, and that the contractor has complied with all requirements and procedures applicable to the contract, the escrow agent shall release to the contractor all deposits and interest on deposits less escrow fees and charges of the escrow account. The escrow shall be closed immediately upon disbursement of all moneys on deposit and payments of fees and charges.

(7) The escrow agent shall rely on the written notifications from the owner and the contractor pursuant to Sections (1) to (6), inclusive, of this agreement and the owner and contractor shall hold the escrow agent harmless from the escrow agent's release, conversion, and disbursement of the securities and interest as set forth above.

(8) The names of the persons who are authorized to give written notice or to receive written notice on behalf of the owner and on behalf of the contractor in connection with the foregoing, and exemplars of their respective signatures are as follows:

On behalf of the owner:

On behalf of the contractor:

Title

Title

Name

Name

Address

Address

On behalf of the escrow agent:

Title

Name

Signature

Address

At the time the escrow account is opened, the owner and contractor shall deliver to the escrow agent a fully executed counterpart of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement by their proper officers on the date first set forth above.

Owner	Contractor
_____	_____
Title	Title
_____	_____
Name	Name
_____	_____
Signature	Signature
_____	_____

SEC. 284. Section 10295.3 of the Public Contract Code is amended to read:

10295.3. (a) (1) Notwithstanding any other provision of law, no state agency may enter into any contract for the acquisition of goods or services in the amount of one hundred thousand dollars (\$100,000) or more with a contractor who, in the provision of benefits, discriminates between employees with spouses and employees with domestic partners, or discriminates between the domestic partners and spouses of those employees.

(2) For purposes of this section, "contract" includes contracts with a cumulative amount of one hundred thousand dollars (\$100,000) or more per contractor in each fiscal year.

(3) For purposes of this section, “domestic partner” means one of two persons who has filed a declaration of domestic partnership with the Secretary of State pursuant to Division 2.5 (commencing with Section 297) of the Family Code.

(4) (A) Subject to subparagraph (B), this section does not apply to any contracts executed or amended prior to January 1, 2007, or to bid packages advertised and made available to the public, or any competitive or sealed bids received by the state, prior to January 1, 2007, unless and until those contracts or property contracts are amended after December 31, 2006, and would otherwise be subject to this section.

(B) If a duration of a contract executed or amended prior to January 1, 2007, is for more than one year going beyond January 1, 2008, this section shall apply to the contract on January 1, 2008.

(5) The requirements of this section shall apply only to those portions of a contractor’s operations that occur under any of the following conditions:

(A) Within the state.

(B) On real property outside the state if the property is owned by the state or if the state has a right to occupy the property, and if the contractor’s presence at that location is connected to a contract with the state.

(C) Elsewhere in the United States where work related to a state contract is being performed.

(b) Contractors shall treat as confidential to the maximum extent allowed by law or by the requirement of the contractor’s insurance provider, any request by an employee or applicant for employment for domestic partner or spousal benefits or any documentation of eligibility for domestic partner or spousal benefits submitted by an employee or applicant for employment.

(c) After taking all reasonable measures to find a contractor that complies with this section as determined by the state agency, the requirements of this section may be waived under any of the following circumstances:

(1) Whenever there is only one prospective contractor willing to enter into a specific contract with the state agency.

(2) If the contract is necessary to respond to an emergency, as determined by the state agency, that endangers the public health, welfare, or safety, or the contract is necessary for the provision of essential services, and no entity that complies with the requirements of this section capable of responding to the emergency is immediately available.

(3) Where the requirements of this section violate, or are inconsistent with, the terms or conditions of a grant, subvention, or agreement, provided that a good faith attempt has been made by the agency to

change the terms or conditions of any grant, subvention, or agreement to authorize application of this section.

(4) Where the contractor is providing wholesale or bulk water, power, or natural gas, the conveyance or transmission of the same, or ancillary services, as required for assuring reliable services in accordance with good utility practice, provided that the purchase of the same may not practically be accomplished through the standard competitive bidding procedures, and further provided that this exemption does not apply to contractors providing direct retail services to end users.

(d) (1) If there is a difference in the cost to provide a certain benefit to a domestic partner or spouse, the contractor is not deemed to be in violation of this section so long as it permits the employee to pay any excess costs.

(2) The contractor is not deemed to discriminate in the provision of benefits if the contractor, in providing the benefits, pays the actual costs incurred in obtaining the benefit.

(3) In the event a contractor is unable to provide a certain benefit, despite taking reasonable measures to do so, the contractor may not be deemed to discriminate in the provision of benefits.

(4) For any contracts executed or amended on or after July 1, 2004, and prior to January 1, 2007, and to bid packages advertised and made available to the public, or any competitive or sealed bids received by the state, on or after July 1, 2004, and prior to January 1, 2007, unless and until those contracts or bid packages are amended after June 30, 2004, but prior to January 1, 2007, and would otherwise be subject to this section, a contractor may require an employee to pay the costs of providing additional benefits that are offered to comply with this section if an employee elects to have the additional benefits. This paragraph shall not be construed to permit a contractor to require an employee to cover the costs of providing any benefits, which have otherwise been provided to all employees regardless of marital or domestic partner status.

(e) A contractor is not deemed to be in violation of this section if the contractor does any of the following:

(1) Offers the same benefits to employees with domestic partners and employees with spouses and offers the same benefits to domestic partners and spouses of employees.

(2) Elects to provide the same benefits to individuals that are provided to employees' spouses and employees' domestic partners.

(3) Elects to provide benefits on a basis unrelated to an employee's marital status or domestic partnership status, including, but not limited to, allowing each employee to designate a legally domiciled member of the employee's household as being eligible for benefits.

(4) Elects not to provide benefits to employees based on their marital status or domestic partnership status, or elects not to provide benefits to employees' spouses and to employees' domestic partners.

(f) (1) Every contract subject to this chapter shall contain a statement by which the contractor certifies that the contractor is in compliance with this section.

(2) The department or other contracting agency shall enforce this section pursuant to its existing enforcement powers.

(3) (A) If a contractor falsely certifies that it is in compliance with this section, the contract with that contractor shall be subject to Article 9 (commencing with Section 10420), unless, within a time period specified by the department or other contracting agency, the contractor provides to the department or agency proof that it has complied, or is in the process of complying, with this section.

(B) The application of the remedies or penalties contained in Article 9 (commencing with Section 10420) to a contract subject to this chapter shall not preclude the application of any existing remedies otherwise available to the department or other contracting agency under its existing enforcement powers.

(g) Nothing in this section is intended to regulate the contracting practices of any local jurisdiction.

(h) This section shall be construed so as not to conflict with applicable federal laws, rules, or regulations. In the event that a court or agency of competent jurisdiction holds that federal law, rule, or regulation invalidates any clause, sentence, paragraph, or section of this code or the application thereof to any person or circumstances, it is the intent of the state that the court or agency sever that clause, sentence, paragraph, or section so that the remainder of this section shall remain in effect.

SEC. 285. Section 2755 of the Public Resources Code is amended to read:

2755. The board shall adopt regulations that establish state policy for the reclamation of mined lands in accordance with Article 1 (commencing with Section 2710) of this chapter and pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 286. Section 2802 of the Public Resources Code is amended to read:

2802. (a) The department shall develop jointly with the United States Geological Survey a prototype earthquake prediction system along the central San Andreas fault near the City of Parkfield.

(b) The system shall include a dense cluster of seismic and crustal deformation instrumentation capable of monitoring geophysical and geochemical phenomena associated with earthquakes in the region.

These data shall be analyzed continuously to determine if precursory anomalies can be identified with sufficient certainty to make a short-term prediction. The department shall not duplicate any of the ongoing efforts of the United States Geological Survey or any public or private college or university in the development of this system.

(c) In meeting its obligations under this chapter, the department shall develop, in cooperation with the United States Geological Survey, a plan for completion of the Parkfield instrumentation network. The plan shall provide for all of the following:

(1) Augmentation of monitoring instruments with the goal of detecting precursors of the Parkfield characteristic earthquake.

(2) Operation by the department of a remote data review station in Sacramento which will provide state scientists with data from the Parkfield prototype earthquake prediction system and other data, as required, to advise the Office of Emergency Services of the occurrence of precursors and verification of the predicted event.

(3) Advising the United States Geological Survey, the Office of Emergency Services, the Seismic Safety Commission, and the California Earthquake Prediction Evaluation Council, regarding the department's review of Parkfield data.

(d) On January 1, 1987, the department shall issue a progress report to the Governor, the Legislature, and the Seismic Safety Commission. An annual progress report shall be made each year thereafter. The project shall terminate on January 1, 1992, unless extended by statute.

SEC. 287. Section 3305 of the Public Resources Code is amended to read:

3305. At the hearing all persons interested are entitled to be heard and may present testimony either oral or written. All witnesses shall be sworn, and a transcript of the proceedings shall be kept by a stenographic reporter. All the provisions of this chapter in reference to the subpoenaing of witnesses and the taking of depositions are applicable to the hearing before the supervisor. On the request of the supervisor, a hearing officer in the Office of Administrative Hearings may assist and rule upon legal matters, but such officer shall not make the determination specified in Section 3306.

SEC. 288. Section 3324 of the Public Resources Code is amended to read:

3324. At hearings all persons interested are entitled to be heard and present evidence, both oral and written. All such persons shall be sworn, and a transcript of the proceedings shall be kept. The procedure to be followed by the supervisor with respect to the administering of oaths, applying for subpoenas for witnesses and for the production of books, records, well logs, production records, and other documents, the taking of depositions, and the penalties attaching for failure to comply with any

order of the supervisor or subpoena issued, shall be in the manner as in this division provided. On the request of the supervisor, a hearing officer in the Office of Administrative Hearings may be assigned to assist in conducting the proceedings as provided in Section 11370.3 of the Government Code. The officer, however, shall not make the determination specified in Section 3321.

The provisions of Section 3234 prohibiting the giving of testimony as to the contents of records on file shall not apply to this article. All of these records shall be available and may be received in evidence in any public hearing or in any judicial proceeding herein provided for.

SEC. 289. Section 5079.50 of the Public Resources Code is amended to read:

5079.50. The office shall award grants to public agencies and nonprofit organizations to improve the management of California's historical resources that, because of natural events or human activities, have suffered impairment or loss of historic integrity. Grants made pursuant to this section shall not be available to acquire public facilities, except to the extent the acquisition is incidental to the historical resource management project.

SEC. 290. Section 14509.3 of the Public Resources Code is amended to read:

14509.3. "Cullet" means scrap glass that is derived from postfilled food, drink, or beverage container glass produced or imported for sale in the state.

SEC. 291. Section 14552.5 of the Public Resources Code is amended to read:

14552.5. (a) The department shall supply all certified processors with a standardized rejection form that shall include, but not be limited to, the names of the parties rejecting the postfilled beverage container material, the date of the rejections, the reasons for the rejections, the amount of rejected material, and a detailed accounting of the steps taken by the processor and container manufacturer to avert landfilling or disposal of the material, as required by subdivision (c) of Section 14552.51.

(b) Every container manufacturer shall fill out the standardized rejection form specified in subdivision (a) whenever that container manufacturer rejects a load of redeemed beverage container materials physically delivered to the manufacturer's place of business and offered for sale by a certified processor. The rejection form shall be filled out by the container manufacturer at the time of the rejection and immediately given to the certified processor for submittal to the department. Any container manufacturer who refuses to fill out the standardized rejection form required by this subdivision is in violation of this division and is subject to the fines and penalties in Sections 14591 and 14591.1.

(c) If a processor has made a good faith effort, as determined by the department, to locate a willing purchaser and is unsuccessful, the processor may fill out the standardized rejection form specified in subdivision (a) and submit it to the department. The processor rejection form shall include, but is not limited to, the name of the processor, the container manufacturers and other potential purchasers contacted, a detailed accounting of the methods used to contact the potential buyers, the date of the rejections, the reasons given for the rejections, the amount of postfilled beverage container material rejected, and any other steps taken to avert landfilling or disposal of the material.

(d) If a container manufacturer rejects a load of postfilled containers by telephone, written correspondence of any kind, or other similar method, the container manufacturer shall, in a manner prescribed by the department, keep accurate logbooks of the offer of loads by the certified processor, and make that logbook available for inspection by the department upon demand. The logbook shall contain, but is not limited to, the same information required in the rejection form pursuant to subdivision (a).

(e) The standardized rejection form specified in subdivision (a) shall be submitted to the department by the certified processor with the written request to dispose of the redeemed material submitted pursuant to Section 14552.51. This material shall not be disposed of without a written authorization to do so by the department pursuant to Section 14552.51.

(f) Nothing in this section shall be interpreted to lessen certified processors' and container manufacturers' responsibilities relating to beverage container recycling, or diminish in any way the department's authority to carry out the intent and goals of this division.

SEC. 292. Section 14581 of the Public Resources Code is amended to read:

14581. (a) Subject to the availability of funds, and pursuant to subdivision (c), the department shall expend the moneys set aside in the fund, pursuant to subdivision (c) of Section 14580 for the purposes of this section:

(1) On and after July 1, 2002, twenty-six million five hundred thousand dollars (\$26,500,000) shall be expended annually for the payment of handling fees required pursuant to Section 14585.

(2) Fifteen million dollars (\$15,000,000) shall be expended annually for payments for curbside programs and neighborhood dropoff programs pursuant to Section 14549.6.

(3) (A) Fifteen million dollars (\$15,000,000), plus the proportional share of the cost-of-living adjustment, as provided in subdivision (b), shall be expended annually in the form of grants for beverage container

litter reduction programs and recycling programs issued to either of the following:

(i) Certified community conservation corps that were in existence on September 30, 1999, or that are formed subsequent to that date, that are designated by a city or a city and county to perform litter abatement, recycling, and related activities, if the city or the city and county has a population, as determined by the most recent census, of more than 250,000 persons.

(ii) Community conservation corps that are designated by a county to perform litter abatement, recycling, and related activities, and are certified by the California Conservation Corps as having operated for a minimum of two years and as meeting all other criteria of Section 14507.5.

(B) Any grants provided pursuant to this paragraph shall not comprise more than 75 percent of the annual budget of a community conservation corps.

(4) (A) Ten million five hundred thousand dollars (\$10,500,000) may be expended annually for payments of five thousand dollars (\$5,000) to cities and ten thousand dollars (\$10,000) for payments to counties for beverage container recycling and litter cleanup activities, or the department may calculate the payments to counties and cities on a per capita basis, and may pay whichever amount is greater, for those activities.

(B) Eligible activities for the use of these funds may include, but are not necessarily limited to, support for new or existing curbside recycling programs, neighborhood dropoff recycling programs, public education promoting beverage container recycling, litter prevention, and cleanup, cooperative regional efforts among two or more cities or counties, or both, or other beverage container recycling programs.

(C) These funds may not be used for activities unrelated to beverage container recycling or litter reduction.

(D) To receive these funds, a city, county, or city and county shall fill out and return a funding request form to the Department of Conservation. The form shall specify the beverage container recycling or litter reduction activities for which the funds will be used.

(E) The Department of Conservation shall annually prepare and distribute a funding request form to each city, county, or city and county. The form shall specify the amount of beverage container recycling and litter cleanup funds for which the jurisdiction is eligible. The form shall not exceed one double-sided page in length, and may be submitted electronically. If a city, county, or city and county does not return the funding request form within 90 days of receipt of the form from the department, the city, county, or city and county is not eligible to receive the funds for that funding cycle.

(F) For the purposes of this paragraph, per capita population shall be based on the population of the incorporated area of a city or city and county and the unincorporated area of a county. The department may withhold payment to any city, county, or city and county that has prohibited the siting of a supermarket site, caused a supermarket site to close its business, or adopted a land use policy that restricts or prohibits the siting of a supermarket site within its jurisdiction.

(5) (A) One million five hundred thousand dollars (\$1,500,000) may be expended annually in the form of grants for beverage container recycling and litter reduction programs.

(B) Up to a total of six million eight hundred forty thousand dollars (\$6,840,000) shall be paid to the City of San Diego, between January 1, 2000, and January 1, 2004, for a curbside recycling program conducted pursuant to Section 14549.7.

(6) (A) The department shall expend the amount necessary to pay the processing payment and supplemental processing payment established pursuant to Sections 14575 and 14575.5 and pay processing fee rebates pursuant to Section 14575.2. The department shall establish separate processing fee accounts in the fund for each beverage container material type for which a processing payment and processing fee is calculated pursuant to Section 14575, or for which a processing payment is calculated pursuant to Section 14575 and a voluntary artificial scrap value is calculated pursuant to Section 14575.1, into which account shall be deposited all of the following:

(i) All amounts paid as processing fees for each beverage container material type pursuant to Section 14575.

(ii) Funds equal to the difference between the amount in clause (i) and the amount of the processing payments established in subdivision (b) of Section 14575, and adjusted pursuant to paragraphs (2) and (3) of subdivision (c) of, and subdivision (f) of, Section 14575, to reduce the processing fee to the level provided in subdivision (f) of Section 14575, or to reflect the agreement by a willing purchaser to pay a voluntary artificial scrap value pursuant to Section 14575.1.

(iii) Funds equal to an amount sufficient to pay the total amount of the supplemental processing payments established pursuant to Section 14575.5.

(B) Notwithstanding Section 13340 of the Government Code, the money in each processing fee account is hereby continuously appropriated to the department for expenditure without regard to fiscal years, for purposes of making processing payments and supplemental processing payments, and reducing processing fees, pursuant to Sections 14575 and 14575.5 and paying processing fee rebates pursuant to Section 14575.2.

(7) Up to five million dollars (\$5,000,000) may be annually expended by the department for the purposes of undertaking a statewide public education and information campaign aimed at promoting increased recycling of beverage containers.

(8) Up to three million dollars (\$3,000,000) shall be expended annually for the payment of quality glass incentive payments pursuant to Section 14549.1.

(9) (A) Three hundred thousand dollars (\$300,000) shall be expended annually by the department, until January 1, 2005, pursuant to a cooperative agreement entered into between the department and Keep California Beautiful, a nonprofit 501(c)(3) organization chartered by the State of California in 1990, for the purpose of conducting statewide public education campaigns aimed at preventing and cleaning up beverage containers and related litter. The campaigns shall include, but not be limited to, coordination of Keep California Beautiful month.

(B) Prior to making an expenditure pursuant to this paragraph, the department shall enter into a cooperative agreement with Keep California Beautiful.

(C) As part of the cooperative agreement, Keep California Beautiful shall provide the department with an annual campaign plan and budget, and a report of previous year campaign activities.

(10) Up to ten million dollars (\$10,000,000) may be expended annually by the department, until January 1, 2007, to issue grants for recycling market development and expansion-related activities aimed at increasing the recycling of beverage containers, including, but not limited to, the following:

(A) Research and development of collecting, sorting, processing, cleaning, or otherwise upgrading the market value of recycled beverage containers.

(B) Identification, development, and expansion of markets for recycled beverage containers.

(C) Research and development for products manufactured using recycled beverage containers.

(D) Payments to California manufacturers who recycle beverage containers that are marked by resin type identification code "3," "4," "5," "6," or "7," pursuant to Section 18015.

(11) Up to ten million dollars (\$10,000,000) may be transferred on a one-time basis by the department to the Recycling Infrastructure Loan Guarantee Account, for expenditure pursuant to Section 14582.

(b) The fifteen million dollars (\$15,000,000) that is set aside pursuant to paragraph (3) of subdivision (a) is a base amount that the department shall adjust annually to reflect any increases or decreases in the cost of living, as measured by the Department of Labor, or a successor agency, of the federal government.

(c) (1) The department shall review all funds on a quarterly basis to ensure that there are adequate funds to make the payments specified in this section and the processing fee reductions required pursuant to Section 14575.

(2) If the department determines, pursuant to a review made pursuant to paragraph (1), that there may be inadequate funds to pay the payments required by this section and the processing fee reductions required pursuant to Section 14575, the department shall immediately notify the appropriate policy and fiscal committees of the Legislature regarding the inadequacy.

(3) On or before 180 days after the notice is sent pursuant to paragraph (2), the department may reduce or eliminate expenditures, or both, from the funds as necessary, according to the procedure set forth in subdivision (d).

(d) If the department determines that there are insufficient funds to make the payments specified pursuant to this section and Section 14575, the department shall reduce all payments proportionally.

(e) Prior to making an expenditure pursuant to paragraph (7) of subdivision (a), the department shall convene an advisory committee consisting of representatives of the beverage industry, beverage container manufacturers, environmental organizations, the recycling industry, nonprofit organizations, and retailers, to advise the department on the most cost-effective and efficient method of the expenditure of the funds for that education and information campaign.

SEC. 293. Section 30610.3 of the Public Resources Code is amended to read:

30610.3. (a) Whenever the commission determines (1) that public access opportunities through an existing subdivided area, which has less than 75 percent of the subdivided lots built upon, or an area proposed to be subdivided are not adequate to meet the public access requirements of this division and (2) that individual owners of vacant lots in those areas do not have the legal authority to comply with public access requirements as a condition of securing a coastal development permit for the reason that some other person or persons has legal authority, the commission shall implement public access requirements as provided in this section.

(b) The commission, on its own motion or at the request of an affected property owner, shall identify an area as meeting the criteria specified in subdivision (a). After an area has been identified, the commission shall, after appropriate public hearings adopt a specific public access program for the area and shall request that the State Coastal Conservancy, established pursuant to Division 21 (commencing with Section 31000), implement the program. The access program shall include, but not be limited to, the identification of specific land areas and view corridors to

be used for public access, any facilities or other development deemed appropriate, the commission's recommendations regarding the manner in which public access will be managed, and the types of permitted public uses. The State Coastal Conservancy shall, pursuant to its authority, implement the public access program.

(c) The State Coastal Conservancy shall be authorized to expend funds when appropriated from the Coastal Access Account for the purchase of lands and view easements and to pay for any development needed to carry out the public access program specified in subdivision (a). Not more than 5 percent of the amount of funds necessary to carry out each public access program may be provided as a grant to the State Coastal Conservancy for its administrative costs incurred in carrying out the access program.

(d) The State Coastal Conservancy may enter into any agreement it deems necessary and appropriate with any state or local public agency or with a private association authorized to perform those functions for the operation and maintenance of any access facilities acquired or developed pursuant to this section.

(e) Every person receiving a coastal development permit or a certificate of exemption for development on any vacant lot within an area designated pursuant to this section shall, prior to the commencement of construction, pay to the commission, for deposit in the Coastal Access Account, an "in-lieu" public access fee. The amount of each fee shall be determined by dividing the cost of acquiring the specified lands and view easements by the total number of lots within the identified area. The proportion of the acquisition cost that can be allocated to lots built upon pursuant to permits that were not subject to public access conditions under this division or the California Coastal Zone Conservation Act of 1972 (former Division 18 (commencing with Section 27000)) shall be paid from the Coastal Access Account. An "in-lieu" public access fee may be in the form of an appropriate dedication, in which event the lots to which the dedication can be credited shall not be counted toward the total number of lots used in arriving at the "in-lieu" public access fee share for each remaining lot.

(f) For purposes of determining the acquisition costs specified in subdivision (e), the State Coastal Conservancy may, in the absence of a fixed price agreed to by both the State Coastal Conservancy and the seller, specify an estimated cost based on a formal appraisal of the value of the interest proposed to be acquired. The appraisal shall be conducted by an independent appraiser under contract with the State Coastal Conservancy and shall be completed within 120 days of the adoption of the specific public access program by the commission pursuant to subdivision (b). The appraisal shall be deemed suitable for all purposes of the Property Acquisition Law (Part 11 (commencing with Section

15850 of the Government Code)). For every year following public acquisition of the interests in land specified as part of a public access program and prior to payment of the required “in-lieu” fee, a carrying cost factor equal to 5 percent of the share attributable to each lot shall be added to any unpaid “in-lieu” public access fee, provided, however, that a lot owner may pay the “in-lieu” public access fee at any time after public acquisition in order to avoid payment of the carrying cost factor.

(g) No provision of this section may be applied within any portion of the unincorporated area in the County of Sonoma, commonly known as the Sea Ranch.

SEC. 294. The heading of Article 1 (commencing with Section 32630) of Division 22.9 of the Public Resources Code is amended to read:

CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

SEC. 295. The heading of Article 2 (commencing with Section 32633) of Division 22.9 of the Public Resources Code is amended to read:

CHAPTER 2. THE SAN DIEGO RIVER CONSERVANCY

SEC. 296. The heading of Article 3 (commencing with Section 32639) of Division 22.9 of the Public Resources Code is amended to read:

CHAPTER 3. POWERS AND DUTIES

SEC. 297. The heading of Article 4 (commencing with Section 32657) of Division 22.9 of the Public Resources Code is amended to read:

CHAPTER 4. SAN DIEGO RIVER CONSERVANCY FUND

SEC. 298. The heading of Article 5 (commencing with Section 32661) of Division 22.9 of the Public Resources Code is amended to read:

CHAPTER 5. REPEAL

SEC. 299. Section 36725 of the Public Resources Code is amended to read:

36725. (a) The Fish and Game Commission may designate, delete, or modify state marine recreational management areas established by the

commission for hunting purposes, state marine reserves, and state marine conservation areas. The Fish and Game Commission shall consult with, and secure concurrence from, the State Parks and Recreation Commission prior to modifying or deleting state marine reserves and state marine conservation areas designated by the State Parks and Recreation Commission. The Fish and Game Commission shall not delete or modify state marine recreational management areas designated by the State Parks and Recreation Commission.

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

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

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

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

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

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

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

Control Board may request the Department of Fish and Game or the Department of Parks and Recreation to take appropriate management action.

SEC. 300. Section 40000 of the Public Resources Code is amended to read:

40000. The Legislature hereby finds and declares all of the following:

(a) In 1988, Californians disposed of over 38 million tons of solid waste, an amount that is expected to grow if existing solid waste policies are continued. This amounts to more than 1,500 pounds of waste per person living in the state, more than any other state in the country and over twice the per-capita rate of most other industrialized countries.

(b) Over 90 percent of California's solid waste currently is disposed of in landfills, some of which pose a threat to groundwater, air quality, and public health.

(c) While California will exhaust most of its remaining landfill space by the mid-1990s, there presently is no coherent state policy to ensure that the state's solid waste is managed in an effective and environmentally sound manner for the remainder of the 20th century and beyond.

(d) The amount of solid waste generated in the state coupled with diminishing landfill space and potential adverse environmental impacts from landfilling constitutes an urgent need for state and local agencies to enact and implement an aggressive new integrated waste management program.

(e) The reduction, recycling, or reuse of solid waste generated in the state will, in addition to preserving landfill capacity in California, serve to conserve water, energy, and other natural resources within this state, and to protect the state's environment.

SEC. 301. Section 41732 of the Public Resources Code is amended to read:

41732. (a) City, county, and regional agency nondisposal facility elements prepared pursuant to Section 41730, 41731, or 41750.1, as the case may be, shall include a description of any new solid waste facilities and the expansion of existing solid waste facilities that will be needed to implement the jurisdiction's source reduction and recycling element and to thereby meet the diversion requirements of Section 41780. The nondisposal facility element may include the identification of specific locations or general areas for new solid waste facilities that will be needed to implement the jurisdiction's source reduction and recycling element.

(b) In complying with the requirements of subdivision (a), the jurisdiction shall utilize the pertinent information that is available to it at the time that the nondisposal facility element is prepared.

SEC. 302. Section 42330 of the Public Resources Code is amended to read:

42330. (a) The board shall grant a waiver from the postconsumer material content requirement of subdivision (a) of Section 42310, but not from any other requirement of Section 42310, if the board finds one or more of the following:

(1) The rigid plastic packaging containers cannot meet the postconsumer material requirements of subdivision (a) of Section 42310 and remain in compliance with applicable provisions of regulations adopted by the Food and Drug Administration or other state or federal laws or regulations.

(2) It is technologically infeasible to use rigid plastic packaging containers that achieve the postconsumer material requirement of subdivision (a) of Section 42310.

(b) The board shall grant a waiver from all of the requirements of Section 42310 if the board finds either of the following:

(1) Less than 60 percent of the single-family homes in the state on and after January 1, 1994, have curbside collection programs that include beverage container recycling.

(2) At least 50 percent, by number, of a manufacturer's rigid plastic packaging containers sold or offered for sale in the state in the current calendar year achieve the postconsumer material requirements of subdivision (a) of Section 42310 and all of the manufacturer's rigid plastic packaging containers will comply with the requirements of Section 42310 on or before January 1, 1996.

(c) The board shall grant a one-year waiver from all of the requirements of Section 42310 for products packaged in rigid plastic packaging containers that are introduced and sold in this state after January 1, 1995.

SEC. 303. Section 42463 of the Public Resources Code is amended to read:

42463. For the purposes of this chapter, the following terms have the following meanings, unless the context clearly requires otherwise:

(a) "Account" means the Electronic Waste Recovery and Recycling Account created in the Integrated Waste Management Fund under Section 42476.

(b) "Authorized collector" means any of the following:

(1) A city, county, or district that collects covered electronic devices.

(2) A person or entity that is required or authorized by a city, county, or district to collect covered electronic devices pursuant to the terms of a contract, license, permit, or other written authorization.

(3) A nonprofit organization that collects or accepts covered electronic devices.

(4) A manufacturer or agent of the manufacturer that collects, consolidates, and transports covered electronic devices for recycling from consumers, businesses, institutions, and other generators.

(5) Any entity that collects, handles, consolidates, and transports covered electronic devices and has filed a notification with the department pursuant to Article 7 (commencing with Section 66273.80) of Chapter 23 of Division 4.5 of Title 22 of the California Code of Regulations.

(c) "Board" means the California Integrated Waste Management Board.

(d) (1) "Consumer" means a purchaser or owner of a covered electronic device. "Consumer" also includes a business, corporation, limited partnership, nonprofit organization, or governmental entity, but does not include an entity involved in a wholesale transaction between a distributor and retailer.

(2) (A) "Consumer" does not include a manufacturer who purchases specialty or medical electronic equipment that is a covered electronic device.

(B) For purposes of this paragraph, "medical electronic equipment" includes, but is not limited to, radiotherapy equipment, cardiology equipment, dialysis equipment, pulmonary ventilators, nuclear medicine equipment, laboratory equipment for in-vitro diagnosis, analyzers, and freezers.

(C) For purposes of this paragraph, "specialty electronic equipment" includes, but is not limited to, smoke detectors, heating regulators, and thermostats.

(e) "Department" means the Department of Toxic Substances Control.

(f) (1) "Covered electronic device" means a cathode ray tube, cathode ray tube device, flat panel screen, or any other similar video display device with a screen size that is greater than four inches in size measured diagonally and which the department determines, when discarded or disposed, would be a hazardous waste pursuant to Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code.

(2) "Covered electronic device" does not include an automobile or a large piece of commercial or industrial equipment, including, but not limited to, commercial medical equipment, that contains a cathode ray tube, cathode ray tube device, flat panel screen, or other similar video display device that is contained within, and is not separate from, the larger piece of industrial or commercial equipment.

(g) "Covered electronic waste" or "covered e-waste" means a covered electronic device that is discarded or disposed.

(h) “Covered electronic waste recycling fee” or “covered e-waste recycling fee” means the fee imposed pursuant to Article 3 (commencing with Section 42464).

(i) “Covered electronic waste recycler” or “covered e-waste recycler” means any of the following:

(1) A person who engages in the manual or mechanical separation of covered electronic devices to recover components and commodities contained therein for the purpose of reuse or recycling.

(2) A person who changes the physical or chemical composition of a covered electronic device, in accordance with the requirements of Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code and the regulations adopted pursuant to that chapter, by deconstructing, size reduction, crushing, cutting, sawing, compacting, shredding, or refining for purposes of segregating components, for purposes of recovering or recycling those components, and who arranges for the transport of those components to an end user.

(3) A manufacturer who meets any conditions established by this chapter and Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code for the collection or recycling of covered electronic waste.

(j) “Electronic waste recovery payment” means an amount established and paid by the board pursuant to Section 42477.

(k) “Electronic waste recycling payment” means a payment made by the board to an authorized collector of covered electronic waste pursuant to Section 42477.

(l) “Electronic waste recycling payment” means an amount established and paid by the board pursuant to Section 42478.

(m) “Hazardous material” has the same meaning as defined in Section 25501 of the Health and Safety Code.

(n) “Manufacturer” means either of the following:

(1) A person who manufactures a covered electronic device sold in this state.

(2) A person who sells a covered electronic device in this state under a person’s brand name.

(o) “Retailer” means a person who sells a covered electronic device in the state to a consumer but who did not manufacture the device. “Retailer” includes a manufacturer of a covered electronic device who sells that covered electronic device directly to a consumer through any means, including, but not limited to, transactions conducted through sales outlets, catalogs, or the Internet, or any other, similar electronic means, but does not include a sale that is a wholesale transaction with a distributor or retailer.

(p) (1) “Sell” or “sale” means any transfer for consideration of title or of the right to use, by lease or sales contract, including, but not limited

to, transactions conducted through sales outlets, catalogs, or the Internet, or any other, similar electronic means, but does not include a wholesale transaction with a distributor or a retailer.

(2) For purposes of this subdivision and subdivision (o), “distributor” means a person who sells a covered electronic device to a retailer.

SEC. 304. Section 42475.2 of the Public Resources Code is amended to read:

42475.2. (a) The board and the department may adopt regulations to implement this chapter as emergency regulations.

(b) The emergency regulations adopted pursuant to this chapter shall be adopted by the board and the department in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and for the purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health, and 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 regulations adopted by the board and the department pursuant to this section shall be filed with, but not be repealed by, the Office of Administrative Law and shall remain in effect for a period of two years or until revised by the board or the department, whichever occurs sooner.

SEC. 305. Section 45000 of the Public Resources Code is amended to read:

45000. (a) Except as provided in subdivision (b), the enforcement agency may issue an administrative order requiring the owner or operator of a solid waste facility to take corrective action as necessary to abate a nuisance, or to protect human health and safety or the environment.

(b) An administrative order shall not be issued for any minor violation that is corrected immediately in the presence of the inspector. Immediate compliance in that manner shall be noted in the inspection report.

(c) The enforcement agency or the board may contract for corrective action after an order issued pursuant to subdivision (a) becomes final and the owner or operator fails to comply with the order by the date specified in the order.

(d) If an enforcement agency or the board expends any funds pursuant to subdivision (b), the owner or operator of the solid waste facility shall reimburse the enforcement agency or the board for the amount expended, including, but not limited to, a reasonable amount for contract administration, and an amount equal to the interest that would have been

earned on the expended funds. The amount expended shall be recoverable in a civil action by the Attorney General, upon request of the local enforcement agency or the board.

(e) Any contract for corrective action entered into by the board is exempt from approval by the Department of General Services pursuant to Section 10295 of the Public Contract Code.

(f) Any corrective action shall incorporate by reference any applicable waste discharge requirements issued by the state water board or a regional water board, and shall be consistent with all applicable water quality control plans adopted pursuant to Section 13170 of, and Article 3 (commencing with Section 13240) of Chapter 4 of Division 7 of, the Water Code, and state policies for water quality control adopted pursuant to Article 3 (commencing with Section 13140) of Chapter 3 of Division 7 of the Water Code, existing at the time of the corrective action or proposed corrective action.

SEC. 306. Section 45010 of the Public Resources Code is amended to read:

45010. The Legislature hereby finds and declares as follows:

(a) It is the intent of the Legislature that administrative civil penalties should be imposed on the operators of solid waste facilities in a judicious manner and should only be imposed after all feasible efforts have been made by enforcement agencies to provide proper notice of violations to alleged violators as well as a reasonable opportunity to bring solid waste facilities into compliance with this division.

(b) Any funds collected through the imposition of civil penalties pursuant to this article shall not be deposited in the General Fund of the local enforcement agency, but instead shall be deposited in a segregated account and used exclusively for the purpose of bringing a solid waste facility into compliance with this division or to remediate an abandoned solid waste disposal site.

(c) Any civil penalties paid to the board pursuant to this article shall be deposited in the Solid Waste Disposal Site Cleanup Trust Fund created pursuant to Section 48027.

SEC. 307. Section 50000 of the Public Resources Code is amended to read:

50000. (a) Until an integrated waste management plan has been approved by the California Integrated Waste Management Board pursuant to Division 30 (commencing with Section 40000), no person shall establish a new solid waste facility or transformation facility or expand an existing solid waste facility or transformation facility that will result in a significant increase in the amount of solid waste handled at the facility without a certification by the enforcement agency that one of the following has occurred:

(1) The facility is identified and described in, or found to conform with, a county solid waste management plan that was in compliance with statutes and regulations in existence on December 31, 1989, adopted pursuant to former Title 7.3 (commencing with Section 66700) of the Government Code as that former statute read on December 31, 1989. The conformance finding with that plan shall be in accordance with the procedure for a finding of conformance that was set forth in the plan prior to January 1, 1990.

(2) The facility is identified and described in the most recent county solid waste management plan that has been approved by the county and by a majority of the cities within the county that contain a majority of the population of the incorporated area of the county, except in those counties that have only two cities, in which case, the plan has been approved by the county and by the city that contains a majority of the population of the incorporated area of the county.

(3) Pursuant to the procedures in subdivision (b), the facility has been approved by the county and by a majority of the cities within the county that contain a majority of the population of the incorporated area of the county, except in those counties that have only two cities, in which case, the facility has been approved by the county and by the city that contains a majority of the population of the incorporated area of the county.

(4) The facility is a material recovery facility and the site identification and description of the facility have been submitted to the task force created pursuant to Section 40950 for review and comment, pursuant to the procedures set forth in subdivision (c). For purposes of this paragraph, "material recovery facility" means a transfer station that is designed to, and, as a condition of its permit, shall, recover for reuse or recycling at least 15 percent of the total volume of material received by the facility.

(5) The facility is identified and described in the countywide siting element that has been approved pursuant to Section 41721.

(b) (1) The review and approval of a solid waste facility or transformation facility that has not been identified or described in a county solid waste management plan shall be initiated by submittal by the person or agency proposing the facility of a site identification and description to the county board of supervisors.

(2) The county shall submit the site identification and description to each city within the county within 20 days from the date that the site identification and description is submitted to the county board of supervisors. The county and each city shall approve or disapprove by resolution the site identification and description within 90 days from the date that the site identification and description are initially submitted to the county or city. Each city shall notify the county board of supervisors of its decision within that 90-day period. If the county or a city fails to

approve or disapprove the site identification and description within 90 days, the city or county shall be deemed to have approved the site identification and description as submitted.

(3) If a city or county disapproves the site identification and description, the city or county shall mail notice of its decision by first-class mail to the person or agency requesting the approval within 10 days of the disapproval by the city or county, stating its reasons for the disapproval.

(4) No county or city shall disapprove a proposed site identification and description for a new solid waste facility or transformation facility or an expanded solid waste facility or transformation facility that will result in a significant increase in the amount of solid waste handled at the facility unless it determines, based upon substantial evidence in the record, that there will be one or more significant adverse impacts within its boundaries from the proposed project.

(5) Within 45 days from the date of a decision by a city or county to disapprove a site identification and description, or a decision by the board not to concur in the issuance of a permit pursuant to Section 44009, any person may file with the superior court a writ of mandate for review of the decision. The evidence before the court shall consist of the record before the city or county that disapproved the site identification and description or the record before the board in its determination not to concur in issuance of the permit. Section 1094.5 of the Code of Civil Procedure shall govern the proceedings conducted pursuant to this subdivision.

(c) To initiate the review and comment by the task force required by paragraph (4) of subdivision (a) and subdivision (d), the person or agency proposing the facility shall submit the site identification and description of the facility to the task force. Within 90 days after the site identification and description are submitted to the task force, the task force shall meet and comment on the facility in writing. Those comments shall include, but are not limited to, the relationship between the proposed new or expanded material recovery facility and the requirements of Section 41780. The task force shall transmit those comments to the applicant, to the county, and to all of the cities in the county.

(d) On or before February 1, 1991, each county, by vote of the board of supervisors and the majority of the cities in the county containing a majority of the population of the incorporated area of the county, except in those counties that have only two cities, in which case the vote is subject to approval of the city that contains a majority of the population of the incorporated area of the county, shall adopt two resolutions after holding a public hearing. One resolution shall address solid waste transfer facilities that are designed to, and, as a condition of their permits,

shall, recover for reuse or recycling less than 15 percent of the total volume of material received by the facility and that serve more than one jurisdiction. The second resolution shall address solid waste transfer facilities that are designed to, and, as a condition of their permits, shall, recover for reuse or recycling less than 15 percent of the total volume of material received by the facility and that serve only one jurisdiction. These resolutions shall specify whether the facilities shall be subject to the review and approval process described in subdivision (b) or the review and comment process described in subdivision (c). If the resolutions required by this subdivision are not adopted on or before February 1, 1991, those facilities shall be subject to the review process described in subdivision (c).

For purposes of this subdivision, a facility serves only one jurisdiction if it serves only one city, only the unincorporated area of one county, or only one city and county.

SEC. 308. Section 71210 of the Public Resources Code is amended to read:

71210. (a) The commission, in consultation with the board, the United States Coast Guard, and a technical advisory group made up of interested persons, including, but not limited to, shipping and port representatives, shall sponsor pilot programs for the purpose of evaluating alternatives for treating and otherwise managing ballast water. The goal of this effort shall be the reduction or elimination of the discharge of nonindigenous species into the coastal waters of the state or into waters that may impact coastal waters of the state. Whenever possible, the pilot programs shall include funding from federal grants and appropriations, vendor funding, and state bond funds, including, but not limited to, bond funds from the Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002. Priority shall be given to projects to test and evaluate treatment technologies that can be used to prevent the introduction and spread of nonindigenous aquatic species into coastal waters of the state by ship-mediated vectors.

(b) The commission shall provide biennial summaries to the Legislature and the public, beginning on or before January 31, 2005, of the results of the pilot programs conducted pursuant to this section. These summary reports shall include, but not be limited to, a description of the projects, the relative effectiveness of the technologies examined in minimizing the discharge of nonindigenous species, and the costs of implementing the technologies.

SEC. 309. Section 280.5 of the Public Utilities Code is amended to read:

280.5. (a) Of the revenues from fees collected pursuant to Section 14666.8 of the Government Code after the operative date of this section, except for revenues from fees from a lease agreement for access to

Department of Transportation property or a lease agreement existing prior to the operative date of the section, 15 percent shall be available, upon appropriation by the Legislature, for the purpose of addressing the state's digital divide.

(b) Revenues described in subdivision (a) shall be deposited in the Digital Divide Account, which is hereby established in the California Teleconnect Fund Administrative Committee Fund established pursuant to Section 270, to be used only for digital divide pilot projects. Not more than 5 percent of the revenues described in subdivision (a) may be used to pay the costs incurred in connection with the administration of digital divide pilot projects by the commission.

(c) (1) The Digital Divide Grant Program is hereby established subject to the availability of funding pursuant to this section. The commission may not implement the grant program until the commission projects that at least five hundred thousand dollars (\$500,000) will be available in the Digital Divide Account during the calendar year following implementation, based on money collected pursuant to Section 14666.8 of the Government Code.

(2) The commission shall provide grants pursuant to this subdivision on a competitive basis subject to criteria to be established by the commission and in a way that disburses the funds widely, including urban and rural areas. Grants shall be awarded to community-based nonprofit organizations that are exempt from taxation under Section 501(c)(3) of the Internal Revenue Code for the purpose of funding community technology programs.

(3) Recipients of grants pursuant to this subdivision shall report to the commission annually on the effectiveness of the grant program.

(4) The commission shall report to the Legislature and the Governor annually on the effectiveness of the program administered pursuant to this subdivision.

(d) For purposes of this section, "community technology programs" means a program that is engaged in diffusing technology in local communities and training local communities in the use of technology, especially local communities that otherwise would have no access or limited access to the Internet and other technologies.

(e) For purposes of this section, "digital divide projects" means community technology programs involved in activities that include, but are not limited to, the following:

(1) Providing open access to and opportunities for training in technology.

(2) Developing content relevant to the interests and wants of the local community.

(3) Preparing youth for opportunities in the new economy through multimedia training and skills.

(4) Harnessing technology for e-government services.

SEC. 310. Section 353.2 of the Public Utilities Code is amended to read:

353.2. (a) As used in this article, “ultra-clean and low-emission distributed generation” means any electric generation technology that meets both of the following criteria:

(1) Commences initial operation between January 1, 2003, and December 31, 2008.

(2) Produces zero emissions during its operation or produces emissions during its operation that are equal to or less than the 2007 State Air Resources Board emission limits for distributed generation, except that technologies operating by combustion must operate in a combined heat and power application with a 60-percent system efficiency on a higher heating value.

(b) In establishing rates and fees, the commission may consider energy efficiency and emissions performance to encourage early compliance with air quality standards established by the State Air Resources Board for ultra-clean and low-emission distributed generation.

SEC. 311. Section 372 of the Public Utilities Code is amended to read:

372. (a) It is the policy of the state to encourage and support the development of cogeneration as an efficient, environmentally beneficial, competitive energy resource that will enhance the reliability of local generation supply, and promote local business growth. Subject to the specific conditions provided in this section, the commission shall determine the applicability to customers of uneconomic costs as specified in Sections 367, 368, 375, and 376. Consistent with this state policy, the commission shall provide that these costs shall not apply to any of the following:

(1) To load served onsite or under an over the fence arrangement by a nonmobile self-cogeneration or cogeneration facility that was operational on or before December 20, 1995, or by increases in the capacity of a facility to the extent that the increased capacity was constructed by an entity holding an ownership interest in or operating the facility and does not exceed 120 percent of the installed capacity as of December 20, 1995, provided that prior to June 30, 2000, the costs shall apply to over the fence arrangements entered into after December 20, 1995, between unaffiliated parties. For the purposes of this subdivision, “affiliated” means any person or entity that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with another specified entity. “Control” means either of the following:

(A) The possession, directly or indirectly, of the power to direct or to cause the direction of the management or policies of a person or entity, whether through an ownership, beneficial, contractual, or equitable interest.

(B) Direct or indirect ownership of at least 25 percent of an entity, whether through an ownership, beneficial, or equitable interest.

(2) To load served by onsite or under an over the fence arrangement by a nonmobile self-cogeneration or cogeneration facility for which the customer was committed to construction as of December 20, 1995, provided that the facility was substantially operational on or before January 1, 1998, or by increases in the capacity of a facility to the extent that the increased capacity was constructed by an entity holding an ownership interest in or operating the facility and does not exceed 120 percent of the installed capacity as of January 1, 1998, provided that prior to June 30, 2000, the costs shall apply to over the fence arrangements entered into after December 20, 1995, between unaffiliated parties.

(3) To load served by existing, new, or portable emergency generation equipment used to serve the customer's load requirements during periods when utility service is unavailable, provided the emergency generation is not operated in parallel with the integrated electric grid, except on a momentary parallel basis.

(4) After June 30, 2000, to any load served onsite or under an over the fence arrangement by any nonmobile self-cogeneration or cogeneration facility.

(b) Further, consistent with state policy, with respect to self-cogeneration or cogeneration deferral agreements, the commission shall do the following:

(1) Provide that a utility shall execute a final self-cogeneration or cogeneration deferral agreement with any customer that, on or before December 20, 1995, had executed a letter of intent (or similar documentation) to enter into the agreement with the utility, provided that the final agreement shall be consistent with the terms and conditions set forth in the letter of intent and the commission shall review and approve the final agreement.

(2) Provide that a customer that holds a self-cogeneration or cogeneration deferral agreement that was in place on or before December 20, 1995, or that was executed pursuant to paragraph (1) in the event the agreement expires, or is terminated, may do any of the following:

(A) Continue through December 31, 2001, to receive utility service at the rate and under terms and conditions applicable to the customer under the deferral agreement that, as executed, includes an allocation of uneconomic costs consistent with subdivision (e) of Section 367.

(B) Engage in a direct transaction for the purchase of electricity and pay uneconomic costs consistent with Sections 367, 368, 375, and 376.

(C) Construct a self-cogeneration or cogeneration facility of approximately the same capacity as the facility previously deferred, provided that the costs provided in Sections 367, 368, 375, and 376 shall apply consistent with subdivision (e) of Section 367, unless otherwise authorized by the commission pursuant to subdivision (c).

(3) Subject to the firewall described in subdivision (e) of Section 367, provide that the ratemaking treatment for self-cogeneration or cogeneration deferral agreements executed prior to December 20, 1995, or executed pursuant to paragraph (1) shall be consistent with the ratemaking treatment for the contracts approved before January 1995.

(c) The commission shall authorize, within 60 days of the receipt of a joint application from the serving utility and one or more interested parties, applicability conditions as follows:

(1) The costs identified in Sections 367, 368, 375, and 376 shall not, prior to June 30, 2000, apply to load served onsite by a nonmobile self-cogeneration or cogeneration facility that became operational on or after December 20, 1995.

(2) The costs identified in Sections 367, 368, 375, and 376 shall not, prior to June 30, 2000, apply to any load served under over the fence arrangements entered into after December 20, 1995, between unaffiliated entities.

(d) For the purposes of this subdivision, all onsite or over the fence arrangements shall be consistent with Section 218 as it existed on December 20, 1995.

(e) To facilitate the development of new microcogeneration applications, electrical corporations may apply to the commission for a financing order to finance the transition costs to be recovered from customers employing the applications.

(f) To encourage the continued development, installation, and interconnection of clean and efficient self-generation and cogeneration resources, to improve system reliability for consumers by retaining existing generation and encouraging new generation to connect to the electric grid, and to increase self-sufficiency of consumers of electricity through the deployment of self-generation and cogeneration, both of the following shall occur:

(1) The commission and the Electricity Oversight Board shall determine if any policy or action undertaken by the Independent System Operator, directly or indirectly, unreasonably discourages the connection of existing self-generation or cogeneration or new self-generation or cogeneration to the grid.

(2) If the commission and the Electricity Oversight Board find that any policy or action of the Independent System Operator unreasonably discourages the connection of existing self-generation or cogeneration or new self-generation or cogeneration to the grid, the commission and

the Electricity Oversight Board shall undertake all necessary efforts to revise, mitigate, or eliminate that policy or action of the Independent System Operator.

SEC. 312. Section 374 of the Public Utilities Code is amended to read:

374. (a) In recognition of statutory authority and past investments existing as of December 20, 1995, and subject to the firewall specified in subdivision (e) of Section 367, the obligation to pay the uneconomic costs identified in Sections 367, 368, 375, and 376 shall not apply to the following:

(1) One hundred ten megawatts of load served by irrigation districts, as hereafter allocated by this paragraph:

(A) The 110 megawatts of load shall be allocated among the service territories of the three largest electrical corporations in the ratio of the number of irrigation districts in the service territory of each utility to the total number of irrigation districts in the service territories of all three utilities.

(B) The total amount of load allocated to each utility service area shall be phased in over five years beginning January 1, 1997, so that one-fifth of the allocation is allocated in each of the five years. Any allocation that remains unused at the end of any year shall be carried over to the succeeding year and added to the allocation for that year.

(C) The load allocated to each utility service territory pursuant to subparagraph (A) shall be further allocated among the respective irrigation districts within that service territory by the California Energy Resources Conservation and Development Commission. An individual irrigation district requesting an allocation shall submit to the commission by January 31, 1997, detailed plans that show the load that it serves or will serve and for which it intends to utilize the allocation within the timeframe requested. These plans shall include specific information on the irrigation districts' organization for electric distribution, contracts, financing and engineering plans for capital facilities, as well as detailed information about the loads to be served, and shall not be less than eight megawatts or more than 40 megawatts, provided, however, that any portion of the 110 megawatts that remains unallocated may be reallocated to projects without regard to the 40 megawatts limitation. In making an allocation among irrigation districts, the Energy Resources Conservation and Development Commission shall assess the viability of each submission and whether it can be accomplished in the timeframe proposed. The Energy Resources Conservation and Development Commission shall have the discretion to allocate the load covered by this section in a manner that best ensures its usage within the allocation period.

(D) At least 50 percent of each year's allocation to a district shall be applied to that portion of load that is used to power pumps for agricultural purposes.

(E) Any load pursuant to this subdivision shall be served by distribution facilities owned by, or leased to, the district in question.

(F) Any load allocated pursuant to paragraph (1) shall be located within the boundaries of the affected irrigation district, or within the boundaries specified in an applicable service territory boundary agreement between an electrical corporation and the affected irrigation district; additionally, the provisions of subparagraph (C) of paragraph (1) shall be applicable to any load within the Counties of Stanislaus or San Joaquin, or both, served by any irrigation district that is currently serving or will be serving retail customers.

(2) Seventy-five megawatts of load served by the Merced Irrigation District hereafter prescribed in this paragraph:

(A) The total allocation provided by this paragraph shall be phased in over five years beginning January 1, 1997, so that one-fifth of the allocation is received in each of the five years. Any allocation that remains unused at the end of any year shall be carried over to the succeeding year and added to the allocation for that year.

(B) Any load to which the provision of this paragraph is applicable shall be served by distribution facilities owned by, or leased to, Merced Irrigation District.

(C) A load to which the provisions of this paragraph are applicable shall be located within the boundaries of Merced Irrigation District as those boundaries existed on December 20, 1995, together with the territory of Castle Air Force Base that was located outside of the district on that date.

(D) The total allocation provided by this paragraph shall be phased in over five years beginning January 1, 1997, with the exception of load already being served by the district as of June 1, 1996, which shall be deducted from the total allocation and shall not be subject to the costs provided in Sections 367, 368, 375, and 376.

(3) To loads served by irrigation districts, water districts, water storage districts, municipal utility districts, and other water agencies that, on December 20, 1995, were members of the Southern San Joaquin Valley Power Authority, or the Eastside Power Authority, provided, however, that this paragraph shall be applicable only to that portion of each district or agency's load that is used to power pumps that are owned by that district or agency as of December 20, 1995, or replacements thereof, and is being used to pump water for district purposes. The rates applicable to these districts and agencies shall be adjusted as of January 1, 1997.

(4) The provisions of this subdivision shall no longer be operative after March 31, 2002.

(5) The provisions of paragraph (1) shall not be applicable to any irrigation district, water district, or water agency described in paragraph (2) or (3).

(6) Transmission services provided to any irrigation district described in paragraph (1) or (2) shall be provided pursuant to otherwise applicable tariffs.

(7) Nothing in this chapter shall be deemed to grant the commission any jurisdiction over irrigation districts not already granted to the commission by existing law.

(b) To give the full effect to the legislative intent in enacting Section 701.8, the costs provided in Sections 367, 368, 375, and 376 shall not apply to the load served by preference power purchased from a federal power marketing agency, or its successor, pursuant to Section 701.8 as it existed on January 1, 1996, provided that the power is used solely for the customer's own systems load and not for sale. The costs of this provision shall be borne by all ratepayers in the affected service territory, notwithstanding the firewall established in subdivision (e) of Section 367.

(c) To give effect to an existing relationship, the obligation to pay the uneconomic costs specified in Sections 367, 368, 375, and 376 shall not apply to that portion of the load of the University of California campus situated in Yolo County that was being served as of May 31, 1996, by preference power purchased from a federal marketing agency, or its successor, provided that the power is used solely for the facility load of that campus and not, directly or indirectly, for sale.

SEC. 313. Section 377.2 of the Public Utilities Code is amended to read:

377.2. Notwithstanding Section 377, a facility for the generation of electricity, or an interest in a facility for the generation of electricity, that is located outside of this state, is owned by a public utility that serves 60,000 or fewer customer accounts in this state, and is not necessary to serve that public utility's customers in this state, may be disposed of upon approval of the commission pursuant to Section 851 or upon exemption by the commission pursuant to Section 853.

SEC. 314. Section 379.6 of the Public Utilities Code is amended to read:

379.6. (a) The commission, in consultation with the State Energy Resources Conservation and Development Commission, shall until January 1, 2008, administer a self-generation incentive program for distributed generation resources, in the same form as exists on January 1, 2004.

(b) Notwithstanding subdivision (a), the self-generation incentive program shall do all of the following:

(1) Commencing January 1, 2005, require all combustion-operated distributed generation projects using fossil fuel to meet an oxides of nitrogen (NO_x) emissions rate standard of 0.14 pounds per megawatthour to be eligible for self-generation rebates.

(2) Commencing January 1, 2007, require all combustion-operated distributed generation projects using fossil fuel to meet an oxides of nitrogen (NO_x) emissions rate standard of 0.07 pounds per megawatthour and a minimum efficiency of 60 percent, to be eligible for self-generation rebates. A minimum efficiency of 60 percent shall be measured as useful energy output divided by fuel input. The efficiency determination shall be based on 100 percent load.

(3) Combined heat and power units that meet the 60-percent efficiency standard may take a credit to meet the applicable oxides of nitrogen (NO_x) emission standard of 0.14 pounds per megawatthour or 0.07 pounds per megawatthour. Credit shall be at the rate of one megawatthour for each 3.4 million British Thermal Units (BTUs) of heat recovered.

(4) Provide the commission with flexibility in administering the self-generation incentive program, including, but not limited to, flexibility with regard to the amount of rebates, inclusion of other ultra-clean and low-emission distributed generation technologies, and evaluation of other public policy interests, including, but not limited to, ratepayers, and energy efficiency and environmental interests.

SEC. 315. Section 396 of the Public Utilities Code is amended to read:

396. (a) A consumer damaged by a violation of this article by an electric service provider is entitled to recover all of the following:

(1) Actual damages.

(2) The consumer's reasonable attorney's fees and court costs.

(3) Exemplary damages, in the amount the court deems proper, for intentional or willful violations.

(4) Equitable relief as the court deems proper.

(b) The rights, remedies, and penalties established by this article are in addition to the rights, remedies, or penalties established under any other law.

(c) Nothing in this article shall abrogate any authority of the Attorney General to enforce existing law.

SEC. 316. Section 399.12 of the Public Utilities Code is amended to read:

399.12. For purposes of this article, the following terms have the following meanings:

(a) “Eligible renewable energy resource” means an electric generating facility that is one of the following:

(1) The facility meets the definition of “in-state renewable electricity generation technology” in Section 383.5.

(2) A geothermal generation facility originally commencing operation prior to September 26, 1996, shall be eligible for purposes of adjusting a retail seller’s baseline quantity of eligible renewable energy resources except for output certified as incremental geothermal production by the Energy Commission, provided that the incremental output was not sold to an electrical corporation under contract entered into prior to September 26, 1996. For each facility seeking certification, the Energy Commission shall determine historical production trends and establish criteria for measuring incremental geothermal production that recognizes the declining output of existing steamfields and the contribution of capital investments in the facility or wellfield.

(3) The output of a small hydroelectric generation facility of 30 megawatts or less procured or owned by an electrical corporation as of the date of enactment of this article shall be eligible only for purposes of establishing the baseline of an electrical corporation pursuant to paragraph (3) of subdivision (a) of Section 399.15. A new hydroelectric facility is not an eligible renewable energy resource if it will require a new or increased appropriation or diversion of water under Part 2 (commencing with Section 1200) of Division 2 of the Water Code.

(4) A facility engaged in the combustion of municipal solid waste shall not be considered an eligible renewable resource unless it is located in Stanislaus County and was operational prior to September 26, 1996. Output from these facilities shall be eligible only for the purpose of adjusting a retail seller’s baseline quantity of eligible renewable energy resources.

(b) “Retail seller” means an entity engaged in the retail sale of electricity to end-use customers, including any of the following:

(1) An electrical corporation, as defined in Section 218.

(2) A community choice aggregator. The commission shall institute a rulemaking to determine the manner in which a community choice aggregator will participate in the renewables portfolio standard subject to the same terms and conditions applicable to an electrical corporation.

(3) An electric service provider, as defined in Section 218.3, subject to the following conditions:

(A) An electric service provider shall be considered a retail seller under this article for sales to any customer acquiring service after January 1, 2003.

(B) An electric service provider shall be considered a retail seller under this article for sales to all its customers beginning on the earlier of January 1, 2006, or the date on which a contract between an electric

service provider and a retail customer expires. Nothing in this subdivision may require an electric service provider to disclose the terms of the contract to the commission.

(C) The commission shall institute a rulemaking to determine the manner in which electric service providers will participate in the renewables portfolio standard. The electric service provider shall be subject to the same terms and conditions applicable to an electrical corporation pursuant to this article. Nothing in this paragraph shall impair a contract entered into between an electric service provider and a retail customer prior to the suspension of direct access by the commission pursuant to Section 80110 of the Water Code.

(4) "Retail seller" does not include any of the following:

(A) A corporation or person employing cogeneration technology or producing power consistent with subdivision (b) of Section 218.

(B) The Department of Water Resources acting in its capacity pursuant to Division 27 (commencing with Section 80000) of the Water Code.

(C) A local publicly owned electrical utility as defined in subdivision (d) of Section 9604.

(c) "Renewables portfolio standard" means the specified percentage of electricity generated by eligible renewable energy resources that a retail seller is required to procure pursuant to Sections 399.13 and 399.15.

SEC. 317. Section 1701.3 of the Public Utilities Code is amended to read:

1701.3. (a) If the commission pursuant to Section 1701.1 has determined that a ratesetting case requires a hearing, the procedures prescribed by this section shall be applicable. The assigned commissioner shall determine prior to the first hearing whether the commissioner or the assigned administrative law judge shall be designated as the principal hearing officer. The principal hearing officer shall be present for more than one-half of the hearing days. The decision of the principal hearing officer shall be the proposed decision. An alternate decision may be issued by the assigned commissioner or the assigned administrative law judge who is not the principal hearing officer. The commission shall establish a procedure for any party to request the presence of a commissioner at a hearing. The assigned commissioner shall be present at the closing arguments of the case. The principal hearing officer shall present the proposed decision to the full commission in a public meeting. The alternate decision, if any, shall also be presented to the full commission at that public meeting. The alternate decision shall be filed with the commission and shall be served on all parties simultaneously with the proposed decision.

The presentation to the full commission shall contain a record of the number of days of the hearing, the number of days that each commissioner was present, and whether the decision was completed on time.

(b) The commission shall provide by regulation for peremptory challenges and challenges for cause of the administrative law judge. Challenges for cause shall include, but not be limited to, financial interests and prejudice. All parties shall be entitled to unlimited peremptory challenges in any case in which the administrative law judge has within the previous 12 months served in any capacity in an advocacy position at the commission, been employed by a regulated public utility, or has represented a party or has been a party of interest in the case.

(c) Ex parte communications are prohibited in ratesetting cases. However, oral ex parte communications may be permitted at any time by any commissioner if all interested parties are invited and given not less than three days' notice. Written ex parte communications may be permitted by any party provided that copies of the communication are transmitted to all parties on the same day. If an ex parte communication meeting is granted to any party, all other parties shall also be granted individual ex parte meetings of a substantially equal period of time and shall be sent a notice of that authorization at the time that the request is granted. In no event shall that notice be less than three days. The commission may establish a period during which no oral or written ex parte communications shall be permitted and may meet in closed session during that period, which shall not in any circumstance exceed 14 days. If the commission holds the decision, it may permit ex parte communications during the first half of the interval between the hold date and the date that the decision is calendared for final decision. The commission may meet in closed session for the second half of that interval.

(d) Any party has the right to present a final oral argument of its case before the commission. Those requests shall be scheduled in a timely manner. A quorum of the commission shall be present for the final oral arguments.

(e) The commission may, in issuing its decision, adopt, modify, or set aside the proposed decision or any part of the decision based on evidence in the record. The final decision of the commission shall be issued not later than 60 days after the issuance of the proposed decision. Under extraordinary circumstances the commission may extend this date for a reasonable period. The 60-day period shall be extended for 30 days if any alternate decision is proposed pursuant to Section 311.

SEC. 318. Section 21670.1 of the Public Utilities Code is amended to read:

21670.1. (a) Notwithstanding any other provision of this article, if the board of supervisors and the city selection committee of mayors in the county each makes a determination by a majority vote that proper land use planning can be accomplished through the actions of an appropriately designated body, then the body so designated shall assume the planning responsibilities of an airport land use commission as provided for in this article, and a commission need not be formed in that county.

(b) A body designated pursuant to subdivision (a) that does not include among its membership at least two members having expertise in aviation, as defined in subdivision (e) of Section 21670, shall, when acting in the capacity of an airport land use commission, be augmented so that body, as augmented, will have at least two members having that expertise. The commission shall be constituted pursuant to this section on and after March 1, 1988.

(c) (1) Notwithstanding subdivisions (a) and (b), and subdivision (b) of Section 21670, if the board of supervisors of a county and each affected city in that county each makes a determination that proper land use planning pursuant to this article can be accomplished pursuant to this subdivision, then a commission need not be formed in that county.

(2) If the board of supervisors of a county and each affected city makes a determination that proper land use planning may be accomplished and a commission is not formed pursuant to paragraph (1), that county and the appropriate affected cities having jurisdiction over an airport, subject to the review and approval by the Division of Aeronautics of the department, shall do all of the following:

(A) Adopt processes for the preparation, adoption, and amendment of the airport land use compatibility plan for each airport that is served by a scheduled airline or operated for the benefit of the general public.

(B) Adopt processes for the notification of the general public, landowners, interested groups, and other public agencies regarding the preparation, adoption, and amendment of the airport land use compatibility plans.

(C) Adopt processes for the mediation of disputes arising from the preparation, adoption, and amendment of the airport land use compatibility plans.

(D) Adopt processes for the amendment of general and specific plans to be consistent with the airport land use compatibility plans.

(E) Designate the agency that shall be responsible for the preparation, adoption, and amendment of each airport land use compatibility plan.

(3) The Division of Aeronautics of the department shall review the processes adopted pursuant to paragraph (2), and shall approve the processes if the division determines that the processes are consistent

with the procedure required by this article and will do all of the following:

(A) Result in the preparation, adoption, and implementation of plans within a reasonable amount of time.

(B) Rely on the height, use, noise, safety, and density criteria that are compatible with airport operations, as established by this article, and referred to as the Airport Land Use Planning Handbook, published by the division, and any applicable federal aviation regulations, including, but not limited to, Part 77 (commencing with Section 77.1) of Title 14 of the Code of Federal Regulations.

(C) Provide adequate opportunities for notice to, review of, and comment by the general public, landowners, interested groups, and other public agencies.

(4) If the county does not comply with the requirements of paragraph (2) within 120 days, then the airport land use compatibility plan and amendments shall not be considered adopted pursuant to this article and a commission shall be established within 90 days of the determination of noncompliance by the division and an airport land use compatibility plan shall be adopted pursuant to this article within 90 days of the establishment of the commission.

(d) A commission need not be formed in a county that has contracted for the preparation of airport land use compatibility plans with the Division of Aeronautics under the California Aid to Airports Program (Chapter 4 (commencing with Section 4050) of Title 21 of the California Code of Regulations), Project Ker-VAR 90-1, and that submits all of the following information to the Division of Aeronautics for review and comment that the county and the cities affected by the airports within the county, as defined by the airport land use compatibility plans:

(1) Agree to adopt and implement the airport land use compatibility plans that have been developed under contract.

(2) Incorporated the height, use, noise, safety, and density criteria that are compatible with airport operations as established by this article, and referred to as the Airport Land Use Planning Handbook, published by the division, and any applicable federal aviation regulations, including, but not limited to, Part 77 (commencing with Section 77.1) of Title 14 of the Code of Federal Regulations, as part of the general and specific plans for the county and for each affected city.

(3) If the county does not comply with this subdivision on or before May 1, 1995, then a commission shall be established in accordance with this article.

(e) (1) A commission need not be formed in a county if all of the following conditions are met:

(A) The county has only one public use airport that is owned by a city.

(B) (i) The county and the affected city adopt the elements in paragraph (2) of subdivision (d), as part of their general and specific plans for the county and the affected city.

(ii) The general and specific plans shall be submitted, upon adoption, to the Division of Aeronautics. If the county and the affected city do not submit the elements specified in paragraph (2) of subdivision (d), on or before May 1, 1996, then a commission shall be established in accordance with this article.

SEC. 319. Section 97.313 of the Revenue and Taxation Code is amended to read:

97.313. (a) Notwithstanding any other provision of this chapter, for the 1995–96 fiscal year only, the auditor of any qualified county shall, upon being directed by the board of supervisors, increase the amount of property tax revenue allocated to that county by an amount of property tax revenue, not to exceed one million five hundred fifty thousand dollars (\$1,550,000), that is attributable to the difference between the following amounts:

(1) The amount of the reduction that would have been determined by the Director of Finance for the qualified county pursuant to subdivision (b) of Section 97.31 in the absence of the two million dollar (\$2,000,000) limitation of subdivision (a) and paragraph (4) of subdivision (b) of that section, and the maximum limitation of paragraph (5) of subdivision (b) of that same section.

(2) The amount of the reduction that was determined by the Director of Finance for the qualified county pursuant to subdivision (b) of Section 97.31.

If the board of supervisors directs the auditor, pursuant to this subdivision, to increase the amount of the property tax revenue allocation of the county, the board shall also direct the auditor to commensurately reduce the amount of the property tax revenue allocation to the Educational Revenue Augmentation Fund. The county shall expend any additional amount of property tax revenue that it receives pursuant to this subdivision solely for the purpose of funding public safety services.

(b) The Director of Finance shall determine for each qualified county the difference described in subdivision (a), and shall as soon as reasonably possible after the effective date of the act adding this section, notify the board of supervisors of each qualified county in writing of the amount of the difference calculated for that county.

(c) For purposes of this section, “qualified county” means an “eligible county,” as defined in paragraph (2) of subdivision (a) of Section 97.31, that was subject to the reduction required by paragraph (4) of subdivision (b) of that same section.

(d) Except as otherwise required by law, the county auditor of a qualified county shall allocate property tax revenues for the 1996–97 fiscal year and each fiscal year thereafter in those amounts that fully reflect, as otherwise required by this chapter, any increases or reductions in allocations that are directed by the board of supervisors pursuant to subdivision (a).

SEC. 320. Section 155.20 of the Revenue and Taxation Code is amended to read:

155.20. (a) Subject to the limitations listed in subdivisions (b), (c), (d), and (e), a county board of supervisors may exempt from property tax all real property with a base year value (as determined pursuant to Chapter 1 (commencing with Section 50) of Part 0.5), and personal property with a full value so low that, if not exempt, the total taxes, special assessments, and applicable subventions on the property would amount to less than the cost of assessing and collecting them.

(b) (1) The board of supervisors shall have no authority to exempt property with a total base year value or full value of more than five thousand dollars (\$5,000), except that this limitation is increased to fifty thousand dollars (\$50,000) in the case of a possessory interest, for a temporary and transitory use, in a publicly owned fairground, fairground facility, convention facility, or cultural facility. For purposes of this paragraph, “publicly owned convention or cultural facility” means a publicly owned convention center, civic auditorium, theater, assembly hall, museum, or other civic building that is used primarily for staging any of the following:

(A) Conventions, trade and consumer shows, or civic and community events.

(B) Live theater, dance, or musical productions.

(C) Artistic, historic, technological, or educational exhibits.

(2) In determining the level of the exemption, the board of supervisors shall determine at what level of exemption the costs of assessing the property and collecting taxes, assessments, and subventions on the property exceeds the proceeds to be collected. The board of supervisors shall establish the exemption level uniformly for different classes of property. In making this determination, the board of supervisors may consider the total taxes, special assessments, and applicable subventions for the year of assessment only or for the year of assessment and succeeding years where cumulative revenues will not exceed the cost of assessments and collections.

(c) This section does not apply to those real or personal properties enumerated in Section 52.

(d) The exemption authorized by this section shall be adopted by the board of supervisors on or before the lien date for the fiscal year to which the exemption is to apply and may, at the option of the board of

supervisors, continue in effect for succeeding fiscal years. Any revision or rescission of the exemption shall be adopted by the board of supervisors on or before the lien date for the fiscal year to which that revision or rescission is to apply.

(e) Nothing in this section shall authorize either of the following:

(1) A county board of supervisors to exempt new construction, unless the new total base year value of the property, including this new construction, is five thousand dollars (\$5,000) or less.

(2) An assessor to exempt or not to enroll any property of any value, unless specifically authorized by a county board of supervisors, pursuant to this section.

SEC. 321. Section 3691.6 of the Revenue and Taxation Code is amended to read:

3691.6. Upon request of the Controller, the tax collector shall report the disposition of all tax-defaulted parcels subject to tax collections power to sell in his or her county.

SEC. 322. Section 6077 of the Revenue and Taxation Code is amended to read:

6077. (a) Any retail florist who fails to obtain a permit before engaging in or conducting business as a seller shall, in addition to any other applicable penalty, pay a penalty of five hundred dollars (\$500).

(b) Every mobile retail florist shall have a copy of the permit at each sales location which shall be in the possession of a person operating at that location.

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

(1) "Retail florist" means any person selling any flowers, potted ornamental plants, floral arrangements, floral bouquets, wreaths, or any similar products at retail. "Retail florist" does not include any flower or ornamental plant grower who sells his or her own products.

(2) "Mobile retail florist" means any retail florist who does not sell from a structure or retail shop, including, but not limited to, a florist who sells from a vehicle, pushcart, wagon, or other portable method, or who sells at a swap meet, flea market, or similar transient location.

SEC. 323. Section 6361.1 of the Revenue and Taxation Code is amended to read:

6361.1. (a) Any qualified organization is a consumer of, and shall not be considered a retailer of, tangible personal property if all of the following conditions are met:

(1) The tangible personal property is of a handcrafted or artistic nature and is designed, created, or made by either individuals with developmental disabilities or children with severe emotional disturbances who are members of, or receive services from, the qualified organization.

(2) The price of each item of tangible personal property sold does not exceed twenty dollars (\$20).

(3) The qualified organization's sales are made on an irregular or intermittent basis.

(4) The qualified organization's profits from the sales are used exclusively in furtherance of the purposes of the organization.

(b) For purposes of this section, "qualified organization" means any organization that meets all of the following conditions:

(1) The organization is exempt from taxation pursuant to paragraph (3) of subsection (c) of Section 501 of Title 26 of the United States Code.

(2) The primary purpose of the organization is to provide services to either individuals with developmental disabilities or children with severe emotional disturbances.

(3) The organization does not discriminate on the basis of race, sex, nationality, or religion.

SEC. 324. Section 9405 of the Revenue and Taxation Code is amended to read:

9405. This chapter shall be administered in conjunction with the IFTA Articles of Agreement, the Use Fuel Tax Law (Part 3 (commencing with Section 8601)), and the Diesel Fuel Tax Law (Part 31 (commencing with Section 60001)). Whenever the Use Fuel Tax Law or the Diesel Fuel Tax Law is inconsistent with the IFTA Articles of Agreement or this chapter, the IFTA Articles of Agreement or this chapter shall prevail except where prohibited by the California Constitution or United States Constitution.

SEC. 325. Section 17132.6 of the Revenue and Taxation Code is amended to read:

17132.6. A payment under paragraph (10) of subsection (c) of Section 103 of the Ricky Ray Hemophilia Relief Fund Act of 1998 (42 U.S.C. Sec. 300c-22) 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. 326. Section 18407 of the Revenue and Taxation Code, as added by Chapter 654 of the Statutes of 2003, is amended to read:

18407. Section 6011 of the Internal Revenue Code, relating to general requirement of return, statement, or list, shall apply, except as otherwise provided.

(a) Section 6011(a) of the Internal Revenue Code, relating to general rule, is modified as follows:

(1) The phrase "any person liable for any tax imposed by Part 10 (commencing with Section 17001), Part 11 (commencing with Section 23001), or this part," shall be substituted for the phrase "when required

by regulations prescribed by the Secretary any person made liable for any tax imposed by this title,” contained therein.

(2) “Secretary of the Treasury under Section 6011 of the Internal Revenue Code for federal income tax purposes or by the Franchise Tax Board” shall be substituted for “Secretary.”

(3) To additionally provide that “reportable transaction” includes any transaction of a type that the Secretary of the Treasury under Section 6011 of the Internal Revenue Code for federal income tax purposes or the Franchise Tax Board under this section for California income or franchise tax purposes determines as having a potential for tax avoidance or evasion including deductions, basis, credits, entity classification, dividend elimination, or omission of income, and shall be reported on the return or the statement required to be made.

(4) To additionally provide that “listed transaction” includes any transaction that is the same as, or substantially similar to, a transaction specifically identified by the Secretary of the Treasury under Section 6011 of the Internal Revenue Code for federal income tax purposes or by the Franchise Tax Board under this section for California income or franchise tax purposes, as a tax avoidance transaction including deductions, basis, credits, entity classification, dividend elimination, or omission of income and shall be reported on the return or statement required to be made.

(A) The Franchise Tax Board shall identify and publish “listed transactions” (whether identified by the Secretary of the Treasury under Section 6011 of the Internal Revenue Code for federal income tax purposes or by the Franchise Tax Board) through the use of Franchise Tax Board Notices or other published positions. In addition, the “listed transactions” identified and published pursuant to the preceding sentence shall be published on the Web site of the Franchise Tax Board.

(B) The Franchise Tax Board shall conduct a public outreach program to make taxpayers aware of the new and increased penalties associated with the use of tax avoidance transactions including deductions, basis, credits, entity classification, dividend elimination, or omission of income.

(5) Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to any standard, criterion, procedure, determination, rule, notice, or guideline established or issued by the Franchise Tax Board pursuant to paragraph (4).

(b) Section 6011(b) of the Internal Revenue Code, relating to identification of taxpayer, does not apply and, in lieu thereof, Section 18408 shall apply.

(c) Section 6011(c) of the Internal Revenue Code, relating to returns, etc., of DISCs and former DISCs and FSCs and former FSCs, does not apply.

(d) Section 6011(d) of the Internal Revenue Code, relating to authority to require information concerning Section 912 allowances, does not apply.

(e) Section 6011(e) of the Internal Revenue Code, relating to regulations requiring returns on magnetic media, etc., shall take into account Section 18408 and shall also include the modifications made to Section 6011(e) of the Internal Revenue Code by Section 18408.

(f) Section 6011(f)(2) of the Internal Revenue Code, relating to incentives, does not apply.

SEC. 327. Section 18407 of the Revenue and Taxation Code, as added by Chapter 656 of the Statutes of 2003, is amended to read:

18407. Section 6011 of the Internal Revenue Code, relating to general requirement of return, statement, or list, shall apply, except as otherwise provided.

(a) Section 6011(a) of the Internal Revenue Code, relating to general rule, is modified as follows:

(1) The phrase “any person liable for any tax imposed by Part 10 (commencing with Section 17001), Part 11 (commencing with Section 23001), or this part,” shall be substituted for the phrase “when required by regulations prescribed by the Secretary any person made liable for any tax imposed by this title,” contained therein.

(2) “Secretary of the Treasury under Section 6011 of the Internal Revenue Code for federal income tax purposes or by the Franchise Tax Board” shall be substituted for “Secretary.”

(3) To additionally provide that “reportable transaction” includes any transaction of a type that the Secretary of the Treasury under Section 6011 of the Internal Revenue Code for federal income tax purposes or the Franchise Tax Board under this section for California income or franchise tax purposes determines as having a potential for tax avoidance or evasion including deductions, basis, credits, entity classification, dividend elimination, or omission of income, and shall be reported on the return or the statement required to be made.

(4) To additionally provide that “listed transaction” includes any transaction that is the same as, or substantially similar to, a transaction specifically identified by the Secretary of the Treasury under Section 6011 of the Internal Revenue Code for federal income tax purposes or by the Franchise Tax Board under this section for California income or franchise tax purposes, as a tax avoidance transaction including deductions, basis, credits, entity classification, dividend elimination, or omission of income and shall be reported on the return or statement required to be made.

(A) The Franchise Tax Board shall identify and publish “listed transactions” (whether identified by the Secretary of the Treasury under Section 6011 of the Internal Revenue Code for federal income tax purposes or by the Franchise Tax Board) through the use of Franchise Tax Board Notices or other published positions. In addition, the “listed transactions” identified and published pursuant to the preceding sentence shall be published on the Web site of the Franchise Tax Board.

(B) The Franchise Tax Board shall conduct a public outreach program to make taxpayers aware of the new and increased penalties associated with the use of tax avoidance transactions including deductions, basis, credits, entity classification, dividend elimination, or omission of income.

(5) Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to any standard, criterion, procedure, determination, rule, notice, or guideline established or issued by the Franchise Tax Board pursuant to paragraph (4).

(b) Section 6011(b) of the Internal Revenue Code, relating to identification of taxpayer, does not apply and, in lieu thereof, Section 18408 shall apply.

(c) Section 6011(c) of the Internal Revenue Code, relating to returns, etc., of DISCs and former DISCs and FSCs and former FSCs, does not apply.

(d) Section 6011(d) of the Internal Revenue Code, relating to authority to require information concerning Section 912 allowances, does not apply.

(e) Section 6011(e) of the Internal Revenue Code, relating to regulations requiring returns on magnetic media, etc., shall take into account Section 18408 and shall also include the modifications made to Section 6011(e) of the Internal Revenue Code by Section 18408.

(f) Section 6011(f)(2) of the Internal Revenue Code, relating to incentives, does not apply.

SEC. 328. Section 19164 of the Revenue and Taxation Code is amended to read:

19164. (a) (1) An accuracy-related penalty shall be imposed under this part and shall be determined in accordance with Section 6662 of the Internal Revenue Code, relating to the imposition of an accuracy-related penalty, except as otherwise provided.

(2) With respect to corporations, this subdivision shall apply to all of the following:

(A) All taxable years beginning on or after January 1, 1990.

(B) Any other taxable year for which an assessment is made after July 16, 1991.

(C) For purposes of this section, references in Section 6662(e) of the Internal Revenue Code and the regulations thereunder, relating to the treatment of an affiliated group that files a consolidated federal return, are modified to apply to those entities required to be included in a combined report under Section 25101 or 25110. For these purposes, entities included in a combined report pursuant to paragraph (4) or (6) of subdivision (a) of Section 25110 shall be considered only to the extent required to be included in the combined report.

(3) Section 6662(d)(1)(B) of the Internal Revenue Code is modified to provide that in the case of a corporation, other than an S corporation, that has been contacted by the Franchise Tax Board regarding the use of a potentially abusive tax shelter (within the meaning of Section 19777), there is a substantial understatement of tax for any taxable year if the amount of the understatement for the taxable year exceeds the lesser of:

(A) Ten percent of the tax required to be shown on the return for the taxable year (or, if greater, two thousand five hundred dollars (\$2,500)), or

(B) Five million dollars (\$5,000,000).

(4) Section 6662(d)(2)(A) of the Internal Revenue Code is modified to additionally provide that the excess determined under Section 6662(d)(2)(A) of the Internal Revenue Code shall be determined without regard to items to which Section 19773 applies and without regard to items with respect to which a penalty is imposed by Section 19774.

(5) For taxpayers that have been contacted by the Franchise Tax Board regarding the use of a potentially abusive tax shelter (within the meaning of Section 19777), Section 6662(d)(2)(B)(i) of the Internal Revenue Code is modified to substitute the phrase “the tax treatment of any item by the taxpayer if the taxpayer had reasonable belief that the tax treatment was more likely than not the proper treatment” for the phrase “the tax treatment of any item by the taxpayer if there is or was substantial authority for such treatment” contained therein.

(b) For purposes of Section 6662(d) of the Internal Revenue Code, Section 6664 of the Internal Revenue Code (as modified by subdivision (d)), Section 6694(a)(1) of the Internal Revenue Code, and this part, the Franchise Tax Board may prescribe a list of positions for which the Franchise Tax Board believes there is not substantial authority or there is no reasonable belief that the tax treatment is more likely than not the proper tax treatment. That list (and any revisions thereof) shall be published through the use of Franchise Tax Board Notices or other published positions. In addition, the “listed transactions” identified and published pursuant to the preceding sentence shall be published on the Web site of the Franchise Tax Board. This subdivision applies only to list of positions relating to abusive tax shelters, within the meaning of Section 19777.

(c) A fraud penalty shall be imposed under this part and shall be determined in accordance with Section 6663 of the Internal Revenue Code, relating to imposition of fraud penalty, except as otherwise provided.

(d) Section 6664 of the Internal Revenue Code, relating to definitions and special rules, shall apply, except as otherwise provided.

(1) For taxpayers that have been contacted by the Franchise Tax Board regarding the use of a potentially abusive tax shelter (within the meaning of Section 19777), Section 6664 of the Internal Revenue Code is modified to additionally provide that no penalty shall be imposed under Section 19773 with respect to any portion of a reportable transaction understatement if it is shown that there was a reasonable cause for that portion and that the taxpayer acted in good faith with respect to that portion.

(2) Paragraph (1) does not apply to any reportable transaction understatement unless all of the following requirements are met:

(A) (i) The relevant facts affecting the tax treatment of the item are adequately disclosed in accordance with the regulations prescribed under Section 6011 of the Internal Revenue Code, as modified by Section 18407.

(ii) A taxpayer failing to adequately disclose in accordance with Section 6011 of the Internal Revenue Code, as modified by Section 18407, shall be treated as meeting the requirements of this subparagraph, if the penalty for that failure was rescinded under subdivision (e) of Section 19772.

(iii) For taxable years beginning on or before January 1, 2003, "adequately disclosed" includes the disclosure of the tax shelter identification number on the taxpayer's return, as required by subdivision (c) of Section 18628.

(B) There is or was substantial authority for the treatment.

(C) The taxpayer reasonably believed that the treatment was more likely than not the proper treatment.

(3) For purposes of subparagraph (C) of paragraph (2) all of the following shall apply:

(A) A taxpayer shall be treated as having a reasonable belief with respect to the tax treatment of an item only if that belief meets both of the following requirements:

(i) Is based on the facts and law that exist at the time the return of tax that includes that tax treatment is filed.

(ii) Relates solely to the taxpayer's chances of success on the merits of that treatment and does not take into account the possibility that the return will not be audited, that the treatment will not be raised on audit, or that the treatment will be resolved through settlement if it is raised.

(B) (i) An opinion of a tax adviser may not be relied upon to establish the reasonable belief of a taxpayer if either of the following conditions are met:

(I) The tax adviser is described in clause (ii).

(II) The opinion is described in clause (iii).

(ii) A tax adviser is described in this clause if the tax adviser meets any of the following conditions:

(I) Is a material adviser (within the meaning of subdivision (d) of Section 18648) who participates in the organization, management, promotion, or sale of the transaction or who is related (within the meaning of Sections 267(b) or 707(b)(1) of the Internal Revenue Code) to any person who so participates.

(II) Is compensated directly or indirectly by a material adviser with respect to the transaction.

(III) Has a fee arrangement with respect to the transaction that is contingent on all or part of the intended tax benefits from the transaction being sustained.

(IV) As determined under regulations prescribed by either the Secretary of the Treasury for federal income tax purposes or the Franchise Tax Board, has a continuing financial interest with respect to the transaction.

(iii) For purposes of clause (i), an opinion is disqualified if the opinion meets any of the following conditions:

(I) Is based on unreasonable, factual, or legal assumptions (including assumptions as to future events).

(II) Unreasonably relies on representations, statements, findings, or agreements of the taxpayer or any other person.

(III) Does not identify and consider all relevant facts.

(IV) Fails to meet any other requirement as either the Secretary of the Treasury for federal income tax purposes or the Franchise Tax Board may by forms and instructions prescribe.

(e) Section 6665 of the Internal Revenue Code, relating to applicable rules, shall apply, except as otherwise provided.

(f) For taxpayers that have been contacted by the Franchise Tax Board regarding the use of a potentially abusive tax shelter (within the meaning of Section 19777), Section 461(i)(3)(C) of the Internal Revenue Code is modified by substituting a reference to “Section 1274(b)(3)(B) of the Internal Revenue Code, as modified by subdivision (g) of Section 19164” instead of the reference to “Section 6662(d)(2)(C)(iii)” contained therein.

(g) For taxpayers that have been contacted by the Franchise Tax Board regarding the use of a potentially abusive tax shelter (within the meaning of Section 19777), Section 1274(b)(3)(B)(i) of the Internal Revenue Code is modified to provide that for purposes of Section

1274(b)(3)(B) of the Internal Revenue Code, the term “tax shelter” means (1) a partnership or other entity, (2) any investment plan or arrangement, or (3) any other plan or arrangement, if a significant purpose of the partnership, entity, plan, or arrangement is the avoidance or evasion of federal income tax or the tax imposed under Part 10 (commencing with Section 17001) or Part 11 (commencing with Section 23001).

SEC. 329. Section 19179 of the Revenue and Taxation Code is amended to read:

19179. A penalty shall be imposed for filing a frivolous return. The penalty shall be determined in accordance with Section 6702 of the Internal Revenue Code, except as otherwise provided.

(a) Section 6702 of the Internal Revenue Code shall be applied to returns required to be filed under this part.

(b) For taxpayers that have been contacted by the Franchise Tax Board regarding the use of a potentially abusive tax shelter (within the meaning of Section 19777), Section 6702(a) of the Internal Revenue Code is modified as follows:

(1) By substituting “\$5,000” instead of “\$500.”

(2) By substituting the term “person” instead of the term “individual” in each place that it appears.

(3) By substituting “tax imposed under Part 10 (commencing with Section 17001), Part 11 (commencing with Section 23001), or this part” instead of the phrase “tax imposed by subtitle A” contained therein.

(4) By substituting the phrase “is based on” instead of the phrase “is due to” contained therein.

(5) By substituting the phrase “frivolous or is based on a position that the Franchise Tax Board has identified as frivolous under subdivision (c) of Section 19179” instead of the term “frivolous” contained therein.

(6) By substituting the phrase “reflects a desire to delay or impede the administration of federal income tax laws as determined by the Secretary of the Treasury or the administration of the tax imposed under Part 10 (commencing with Section 17001), Part 11 (commencing with Section 23001), or this part as determined by the Franchise Tax Board” instead of the phrase “a desire (which appears on the purported return) to delay or impede the administration of Federal income tax laws” contained therein.

(c) (1) The Franchise Tax Board shall prescribe (and periodically revise) a list of positions which the Secretary of the Treasury for federal income tax purposes or the Franchise Tax Board has identified as being frivolous for purposes of this section.

(2) Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to any standard, criterion, procedure, determination, rule, notice, or guideline

established or prescribed by the Franchise Tax Board pursuant to paragraph (1).

(d) (1) Except as provided in paragraph (3), any person who submits a specified frivolous submission shall pay a penalty of five thousand dollars (\$5,000).

(2) For purposes of this section, all of the following shall apply:

(A) The phrase "specified frivolous submission" means a specified submission if any portion of that submission meets any of the following conditions:

(i) Is based on a position which the Franchise Tax Board has identified as frivolous under subdivision (c).

(ii) Reflects a desire to delay or impede the administration of federal income tax laws as determined by the Secretary of the Treasury or the administration of the tax imposed under Part 10 (commencing with Section 17001), Part 11 (commencing with Section 23001), or this part as determined by the Franchise Tax Board.

(B) The phrase "specified submission" means any of the following:

(i) A protest under Section 19041.

(ii) A request for a hearing under Section 19044.

(iii) An application under any of the following sections:

(I) Section 19008 (relating to agreements for payment of tax liability in installments).

(II) Section 19443 (relating to compromises).

(III) Section 21004 (relating to actions of the Taxpayer Right's Advocate).

(3) If the Franchise Tax Board provides a person with notice that a submission is a specified frivolous submission and the person withdraws that submission within 30 days after the notice, the penalty imposed under paragraph (1) does not apply with respect to that submission.

(e) (1) The Chief Counsel of the Franchise Tax Board may rescind all or any portion of any penalty imposed by this section if both of the following apply:

(A) Imposing the penalty would be against equity and good conscience.

(B) Rescinding the penalty would promote compliance with the requirements of this part and Part 10 (commencing with Section 17001) or Part 11 (commencing with Section 23001) and effective tax administration.

(2) The exercise of authority under paragraph (1) shall be at the sole discretion of the Chief Counsel of the Franchise Tax Board and may not be delegated.

(3) Notwithstanding any other law or rule of law, any determination under this subdivision may not be reviewed in any administrative or judicial proceeding.

(f) The penalties imposed by this section shall be in addition to any other penalty provided by law.

SEC. 330. Section 19777 of the Revenue and Taxation Code, as added by Chapter 654 of the Statutes of 2003, is amended to read:

19777. (a) If a taxpayer has been contacted by the Franchise Tax Board regarding the use of a potentially abusive tax shelter, and has a deficiency, there shall be added to the tax an amount equal to 100 percent of the interest payable under Section 19101 for the period beginning on the last date prescribed by law for the payment of that tax (determined without regard to extensions) and ending on the date the notice of proposed assessment is mailed.

(b) "Potentially abusive tax shelter" means:

(1) Any tax shelter (as defined in Section 6111 of the Internal Revenue Code) with respect to which registration is required under Section 6111 of the Internal Revenue Code.

(2) Any entity, investment plan or arrangement, or other plan or arrangement which is of a type that the Secretary of the Treasury or the Franchise Tax Board determines by regulations as having a potential for tax avoidance or evasion.

(c) The penalty imposed by this section is in addition to any other penalty imposed under Part 10 (commencing with Section 17001), Part 11 (commencing with Section 23001), or this part.

(d) This section shall apply to notices of proposed assessments mailed after the effective date of the act adding this section.

SEC. 331. Section 19777 of the Revenue and Taxation Code, as added by Chapter 656 of the Statutes of 2003, is amended to read:

19777. (a) If a taxpayer has been contacted by the Franchise Tax Board regarding the use of a potentially abusive tax shelter, and has a deficiency, there shall be added to the tax an amount equal to 100 percent of the interest payable under Section 19101 for the period beginning on the last date prescribed by law for the payment of that tax (determined without regard to extensions) and ending on the date the notice of proposed assessment is mailed.

(b) "Potentially abusive tax shelter" means:

(1) Any tax shelter (as defined in Section 6111 of the Internal Revenue Code) with respect to which registration is required under Section 6111 of the Internal Revenue Code.

(2) Any entity, investment plan or arrangement, or other plan or arrangement which is of a type that the Secretary of the Treasury or the Franchise Tax Board determines by regulations as having a potential for tax avoidance or evasion.

(c) The penalty imposed by this section is in addition to any other penalty imposed under Part 10 (commencing with Section 17001), Part 11 (commencing with Section 23001), or this part.

(d) This section shall apply to notices of proposed assessments mailed after the effective date of the act adding this section.

SEC. 332. Section 23036 of the Revenue and Taxation Code is amended to read:

23036. (a) (1) The term “tax” includes any of the following:

(A) The tax imposed under Chapter 2 (commencing with Section 23101).

(B) The tax imposed under Chapter 3 (commencing with Section 23501).

(C) The tax on unrelated business taxable income, imposed under Section 23731.

(D) The tax on S corporations imposed under Section 23802.

(2) The term “tax” does not include any amount imposed under paragraph (1) of subdivision (e) of Section 24667 or paragraph (2) of subdivision (f) of Section 24667.

(b) For purposes of Article 5 (commencing with Section 18661) of Chapter 2, Article 3 (commencing with Section 19031) of Chapter 4, Article 6 (commencing with Section 19101) of Chapter 4, and Chapter 7 (commencing with Section 19501) of Part 10.2, and for purposes of Sections 18601, 19001, and 19005, the term “tax” also includes all of the following:

(1) The tax on limited partnerships, imposed under Section 17935, the tax on limited liability companies, imposed under Section 17941, and the tax on registered limited liability partnerships and foreign limited liability partnerships imposed under Section 17948.

(2) The alternative minimum tax imposed under Chapter 2.5 (commencing with Section 23400).

(3) The tax on built-in gains of S corporations, imposed under Section 23809.

(4) The tax on excess passive investment income of S corporations, imposed under Section 23811.

(c) Notwithstanding any other provision of this part, credits are allowed against the “tax” in the following order:

(1) Credits that do not contain carryover provisions.

(2) Credits that, when the credit exceeds the “tax,” allow the excess to be carried over to offset the “tax” in succeeding taxable years, except for those credits that are allowed to reduce the “tax” below the tentative minimum tax, as defined by Section 23455. The order of credits within this paragraph shall be determined by the Franchise Tax Board.

(3) The minimum tax credit allowed by Section 23453.

(4) Credits that are allowed to reduce the “tax” below the tentative minimum tax, as defined by Section 23455.

(5) Credits for taxes withheld under Section 18662.

(d) Notwithstanding any other provision of this part, each of the following applies:

(1) No credit may reduce the “tax” below the tentative minimum tax (as defined by paragraph (1) of subdivision (a) of Section 23455), except the following credits:

(A) The credit allowed by former Section 23601 (relating to solar energy).

(B) The credit allowed by former Section 23601.4 (relating to solar energy).

(C) The credit allowed by former Section 23601.5 (relating to solar energy).

(D) The credit allowed by Section 23609 (relating to research expenditures).

(E) The credit allowed by former Section 23609.5 (relating to clinical testing expenses).

(F) The credit allowed by Section 23610.5 (relating to low-income housing).

(G) The credit allowed by former Section 23612 (relating to sales and use tax credit).

(H) The credit allowed by Section 23612.2 (relating to enterprise zone sales or use tax credit).

(I) The credit allowed by former Section 23612.6 (relating to Los Angeles Revitalization Zone sales tax credit).

(J) The credit allowed by former Section 23622 (relating to enterprise zone hiring credit).

(K) The credit allowed by Section 23622.7 (relating to enterprise zone hiring credit).

(L) The credit allowed by former Section 23623 (relating to program area hiring credit).

(M) The credit allowed by former Section 23623.5 (relating to Los Angeles Revitalization Zone hiring credit).

(N) The credit allowed by former Section 23625 (relating to Los Angeles Revitalization Zone hiring credit).

(O) The credit allowed by Section 23633 (relating to targeted tax area sales or use tax credit).

(P) The credit allowed by Section 23634 (relating to targeted tax area hiring credit).

(Q) The credit allowed by Section 23649 (relating to qualified property).

(2) No credit against the tax may reduce the minimum franchise tax imposed under Chapter 2 (commencing with Section 23101).

(e) Any credit which is partially or totally denied under subdivision (d) is allowed to be carried over to reduce the “tax” in the following year, and succeeding years if necessary, if the provisions relating to that credit

include a provision to allow a carryover of the unused portion of that credit.

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

(g) Unless otherwise provided, if two or more taxpayers share in costs that would be eligible for a tax credit allowed under this part, each taxpayer is eligible to receive the tax credit in proportion to his or her respective share of the costs paid or incurred.

(h) Unless otherwise provided, in the case of an S corporation, any credit allowed by this part is computed at the S corporation level, and any limitation on the expenses qualifying for the credit or limitation upon the amount of the credit applies to the S corporation and to each shareholder.

(i) (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 is 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 "tax," as defined in subdivision (a), for the taxable year is limited to an amount equal to the excess of the taxpayer's regular tax (as defined in Section 23455), 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 23455), determined by excluding the income attributable to that disregarded business entity. No credit is allowed if the taxpayer's regular tax (as defined in Section 23455), determined by including the income attributable to the disregarded business entity is less than the taxpayer's regular tax (as defined in Section 23455), 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 (d), (e), and (f).

(j) (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 a credit is operative.

(3) This subdivision applies to credits that become inoperative on or after the operative date of the act adding this subdivision.

SEC. 333. Section 23736.1 of the Revenue and Taxation Code is amended to read:

23736.1. (a) For the purposes of this article, the term “prohibited transaction” means any transaction in which an organization subject to this article—

(1) Lends any part of its income or corpus, without the receipt of adequate security and a reasonable rate of interest, to;

(2) Pays any compensation, in excess of a reasonable allowance for salaries or other compensation for personal services actually rendered, to;

(3) Makes any part of its services available on a preferential basis to;

(4) Makes any substantial purchase of securities or any other property, for more than adequate consideration in money or money’s worth, from;

(5) Sells any substantial part of its securities or other property, for less than an adequate consideration in money or money’s worth, to; or

(6) Engages in any other transaction that results in a substantial diversion of its income or corpus to; the creator of the organization (if a trust); a person who has made a substantial contribution to the organization; a member of the family (as defined in Section 267(c)(4) of the Internal Revenue Code) of an individual who is the creator of that trust or who has made a substantial contribution to that organization; or a corporation controlled by that creator or person through the ownership, directly or indirectly, of 50 percent or more of the total combined voting power of all classes of stock entitled to vote or 50 percent or more of the total value of shares of all classes of stock of the corporation.

(b) For purposes of subdivision (a), a bond, debenture, note, or certificate or other evidence of indebtedness (hereinafter in this section referred to as “obligation”) acquired by a trust described in Section 23701n shall not be treated as a loan made without the receipt of adequate security if—

(1) The obligation is acquired—

(A) On the market, either (i) at the price of the obligation prevailing on a national securities exchange that is registered with the Securities and Exchange Commission, or (ii) if the obligation is not traded on a national securities exchange, at a price not less favorable to the trust than

the offering price for the obligation as established by current bid and asked prices quoted by persons independent of the issuer;

(B) From an underwriter, at a price (i) not in excess of the public offering price for the obligation as set forth in a prospectus or offering circular filed with the Securities and Exchange Commission, and (ii) at which a substantial portion of the same issue is acquired by persons independent of the issuer; or

(C) Directly from the issuer, at a price not less favorable to the trust than the price paid currently for a substantial portion of the same issue by persons independent of the issuer;

(2) Immediately following acquisition of that obligation—

(A) Not more than 25 percent of the aggregate amount of obligations issued in that issue and outstanding at the time of acquisition is held by the trust, and

(B) At least 50 percent of the aggregate amount referred to in subparagraph (A) is held by persons independent of the issuer; and

(3) Immediately following acquisition of the obligation, not more than 25 percent of the assets of the trust is invested in obligations of persons described in subdivision (a).

(4) (A) In the case of a trust described in Section 23701n, or in the case of a corporation described in Section 23701h, all of the stock of which was acquired before January 1, 1961, by a trust described in Section 23701n, any indebtedness incurred by that trust or that corporation before January 1, 1961, in connection with real property that is leased before January 1, 1961, and any indebtedness incurred by that trust or that corporation on or after that date necessary to carry out the terms of that lease, shall not be considered as an indebtedness with respect to that trust or that corporation for purposes of this section.

(B) In the application of paragraph (1) of subdivision (a), if a trust described in Section 23701n forming part of a supplemental unemployment compensation benefit plan lends any money to another trust described in Section 23701n forming part of the same plan, that loan shall not be treated as an indebtedness of the borrowing trust, except to the extent that the loaning trust—

(i) Incurs any indebtedness in order to make that loan,

(ii) Incurred indebtedness before the making of that loan which would not have been incurred but for the making of that loan, or

(iii) Incurred indebtedness after the making of that loan which would not have been incurred but for the making of that loan and that was reasonably foreseeable at the time of making that loan.

(c) Subdivision (a) shall not apply to a loan made by a trust described in Section 23701n to the employer (or to a renewal of that loan or, if the loan is repayable upon demand, to a continuation of that loan) if the loan

bears a reasonable rate of interest, and if (in the case of a making or renewal)—

(1) The employer is prohibited (at the time of that making or renewal) by any law of the United States or regulation thereunder from directly or indirectly pledging, as security for the loan, a particular class or classes of his or her assets the value of which (at that time) represents more than one-half of the value of all his or her assets;

(2) The making or renewal, as the case may be, is approved in writing as an investment that is consistent with the exempt purposes of the trust by a trustee who is independent of the employer, and no other independent trustee had previously refused to give that written approval; and

(3) Immediately following the making or renewal, as the case may be, the aggregate amount loaned by the trust to the employer, without the receipt of adequate security, does not exceed 25 percent of the value of all the assets of the trust.

(4) For purposes of paragraph (2) the term “trustee” means, with respect to any trust for which there is more than one trustee who is independent of the employer, a majority of those independent trustees. For purposes of paragraph (3), the determination as to whether any amount loaned by the trust to the employer is loaned without the receipt of adequate security shall be made without regard to subdivision (b).

SEC. 334. Section 46622 of the Revenue and Taxation Code is amended to read:

46622. (a) It is the intent of the Legislature that the State Board of Equalization, its staff, and the Attorney General pursue settlements as authorized under this section with respect to fee 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) Subject to paragraph (2), the executive director or chief counsel, if authorized by the executive director, of the board may recommend to the State Board of Equalization, itself, a settlement of any civil fee matter in dispute.

(2) No recommendation of settlement shall be submitted to the board unless and until that recommendation has been submitted by the executive director 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 director or chief counsel of the board of his or her conclusions as to whether the recommendation is reasonable from an overall perspective. The executive director or chief counsel shall, with each recommendation of settlement submitted to the board, also submit the Attorney General’s written conclusions obtained pursuant to this paragraph.

(c) Whenever a reduction of fee in settlement in excess of five hundred dollars (\$500) is approved pursuant to this section, 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 settlement. The public record shall include all of the following information:

(1) The name or names of the feepayers 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) 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 feepayer or the national defense.

(d) The members of the State Board of Equalization shall not participate in the settlement of fee matters pursuant to this section, except as provided in subdivision (e).

(e) (1) Any recommendation of settlement shall be approved or disapproved by the board, itself, within 45 days of the submission of that recommendation to the board. Any recommendation for settlement that is not either approved or disapproved by the board 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 director or chief counsel in accordance with the decision of the board.

(2) Disapproval of a recommendation for settlement shall be made only by a majority vote of the board. Where the board disapproves a recommendation for settlement, the matter shall be remanded to board staff for further negotiation, and may be resubmitted to the board, in the same manner and subject to the same requirements as the initial submission, at the discretion of the executive director or chief counsel.

(f) 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.

(g) Any proceedings undertaken by the board itself pursuant to a settlement as described in this section shall be conducted in a closed session or sessions.

(h) This section shall apply only to fee matters in dispute 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 board in implementing and administering the settlement program authorized by this section.

SEC. 335. Section 55337 of the Revenue and Taxation Code is amended to read:

55337. (a) If any officer or employee of the board recklessly disregards board-published procedures, a taxpayer aggrieved by that action or omission may bring an action for damages against the State of California in superior court.

(b) In any action brought under subdivision (a), upon finding of liability on the part of the State of California, the state shall be liable to the plaintiff in an amount equal to the sum of all of the following:

(1) Actual and direct monetary damages sustained by the plaintiff as a result of the actions or omissions.

(2) Reasonable litigation costs, including any of the following:

(A) Reasonable court costs.

(B) Prevailing market rates for the kind or quality of services furnished in connection with any of the following:

(i) The reasonable expenses of expert witnesses in connection with the civil proceedings, except that no expert witness shall be compensated at a rate in excess of the highest rate of compensation for expert witnesses paid by the State of California.

(ii) The reasonable cost of any study, analysis, engineering report, test, or project that is found by the court to be necessary for the preparation of the party's case.

(iii) Reasonable fees paid or incurred for the services of attorneys in connection with the civil proceeding, except that those fees shall not be in excess of seventy-five dollars (\$75) per hour unless the court determines that an increase in the cost of living or a special factor, such as the limited availability of qualified attorneys for the proceeding, justifies a higher rate.

(c) In the awarding of damages under subdivision (b), the court shall take into consideration the negligence or omissions, if any, on the part of the plaintiff which contributed to the damages.

(d) Whenever it appears to the court that the taxpayer's position in the proceeding brought under subdivision (a) is frivolous, the court may impose a penalty against the plaintiff in an amount not to exceed ten thousand dollars (\$10,000). A penalty so imposed shall be paid upon notice and demand from the board and shall be collected as a tax imposed under this part.

SEC. 336. Section 104.7 of the Streets and Highways Code is amended to read:

104.7. (a) Unless otherwise provided by statute, when requested by a city, county, or special district, the department shall provide information regarding, and shall lease, unoccupied, unimproved property that is held for future highway purposes to the city, county, or special district within which the property is located. The city, county, or special district may use the leased property first for agricultural and community garden purposes, and second for recreational purposes, on terms and conditions not unreasonably inhibiting the use of the property, including, but not limited to, assumption of liability and installation and removal of improvements. The lease shall be for one dollar (\$1) per year for not less than one year and shall be renewable.

The city, county, or special district may sublease the property for agricultural or recreational purposes upon prior written notification to the department, and may proceed with the sublease unless disapproved by the department within 10 working days after the notice is sent to the department. The first priority for a sublease shall be given to the owner of property contiguous to the leased land.

In a sublease of the property, the city, county, or special district may charge rental fees at least sufficient to pay its administrative costs. All money received by the city, county, or special district under a sublease, less administrative costs, shall be transmitted to the department for deposit in the State Highway Account.

(b) Unoccupied, unimproved property that has commercial, industrial, or residential use as its most feasible or best use, as determined by the department, is not subject to this section.

(c) The Legislature finds and declares that the lease of unoccupied, unimproved property pursuant to this section serves a public purpose.

SEC. 337. Section 3114.5 of the Streets and Highways Code is amended to read:

3114.5. (a) This section applies only to community facilities districts.

(b) Within 15 days after determination pursuant to Section 53328 of the Government Code that the requisite number of voters is in favor of the levy of a special tax, the clerk of the legislative body shall execute and record a notice of special tax lien in the office of the county recorder of each county in which all or any part of the community facilities district is located, and the county recorder shall accept that notice. The county recorder shall index the notice of special tax liens to the names of the property owners within the community facilities district and shown in the notice, as grantors. The notice of special tax lien shall contain the information required by Section 27288.1 of the Government Code and shall be in substantially the following form:

NOTICE OF SPECIAL TAX LIEN

Pursuant to the requirements of Section 3114.5 of the Streets and Highways Code and Section 53328.3 of the Government Code, the undersigned clerk of the legislative body of _____, State of California, hereby gives notice that a lien to secure payment of a special tax is hereby imposed by the (here insert name of legislative body) of (here insert city and name of county thereafter), State of California. The special tax secured by this lien is authorized to be levied for the purpose of: (as applicable) (1) paying principal and interest on bonds, the proceeds of which are being used to finance (briefly describe facilities financed); (2) providing (briefly describe facilities financed without bonds); (3) providing (briefly describe services being financed).

If all or any portion of the proceeds of taxes or bonds of the district are authorized to be used to pay for cleanup of hazardous substances pursuant to subdivision (f) of Section 53313 of the Government Code, the notice shall also contain the following statement in large conspicuous type:

TAXES LEVIED BY THIS DISTRICT MAY BE USED TO PAY FOR CLEANUP OF HAZARDOUS SUBSTANCES.

The special tax is authorized to be levied within Community Facilities District No. ____ which has now been officially formed and the lien of the special tax is a continuing lien which shall secure each annual levy of the special tax and which shall continue in force and effect until the special tax obligation is prepaid, permanently satisfied, and canceled in accordance with law or until the special tax ceases to be levied and a notice of cessation of special tax is recorded in accordance with Section 53330.5 of the Government Code.

The rate, method of apportionment, and manner of collection of the authorized special tax is as follows: (here insert verbatim the description of the rate, method of apportionment, and manner of collection from the resolution of formation of the community facilities district). Conditions under which the obligation to pay the special tax may be prepaid and permanently satisfied and the lien of the special tax canceled are as follows: (here insert such conditions as are set forth in the resolution of formation or, if no provision has been made for prepayment of the special tax obligation, so state).

Notice is further given that upon the recording of this notice in the office of the county recorder, the obligation to pay the special tax levy shall become a lien upon all nonexempt real property within Community Facilities District No. ____ in accordance with Section 3115.5 of the Streets and Highways Code.

The name(s) of the owner(s) and the assessor's tax parcel number(s) of the real property included within this community facilities district and not exempt from the special tax are as follows: (insert name(s) of owner(s) and tax parcel number(s) shown on assessment roll).

Reference is made to the boundary map (or the amended boundary map) of the community facilities district recorded at Book ___ of Maps of Assessment and Community Facilities Districts at Page ___, in the office of the County Recorder for the County of ____, State of California which map is now the final boundary map of the community facilities district.

For further information concerning the current and estimated future tax liability of owners or purchasers of real property subject to this special tax lien, interested persons should contact (here provide name, address, and telephone number of the appropriate office, department, or bureau of the public entity designated pursuant to Section 53340.1 of the Government Code).

(c) The county recorder shall endorse upon the notice the time and date of filing, and shall cross index the notice 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.

SEC. 338. Section 5101 of the Streets and Highways Code is amended to read:

5101. Whenever, in the opinion of the legislative body, the public interest or convenience may require, it may order the whole or any portion, either in length or in width, of any one or more of the streets, places, public ways, or property, easements, or rights-of-way, or tidelands, or submerged lands owned by any city, or tidelands or submerged lands leased by the state to any city for the construction of improvements authorized by subdivision (g), open or dedicated to public use, and any property for which an order for possession prior to judgment has been obtained, to be improved by or have constructed therein, over, or thereon, either singly or in any combination thereof, any of the following:

(a) The grading or regrading, the paving or repaving, the planking or replanking, the macadamizing or remacadamizing, the graveling or regravelling, or the oiling or reoiling thereof.

(b) The construction or reconstruction of sidewalks, crosswalks, steps, safety zones, platforms, seats, statuary, fountains, parks and parkways, recreation areas, including all structures, buildings, and other facilities necessary to make parks and parkways and recreation areas useful for the purposes for which intended, culverts, bridges, curbs, gutters, tunnels, subways, or viaducts.

(c) Sanitary sewers or instrumentalities of sanitation, together with the necessary outlets, cesspools, manholes, catch basins, flush tanks, septic tanks, disposal plants, connecting sewers, ditches, drains, conduits, tunnels, channels, or other appurtenances.

(d) Drains, tunnels, sewers, conduits, culverts, and channels for drainage purposes, together with necessary outlets, cesspools, manholes, catch basins, flush tanks, septic tanks, disposal plants, connecting sewers, ditches, drains, conduits, channels, and appurtenances.

(e) Poles, posts, wires, pipes, conduits, tunnels, lamps, and other suitable or necessary appliances for the purpose of lighting the streets, places, or public ways of any such city or property or rights-of-way owned by any such city, or for the purpose of furnishing electricity and electric service or telephone service to property within a city.

(f) Pipes, hydrants, and appliances for fire protection.

(g) Breakwaters, levees, bulkheads, groins, and walls of rock or other material to protect the streets, places, public ways, and other property in any such city, from overflow by water, or to prevent beach erosion or to promote accretion to beaches.

(h) Wells, pumps, dams, reservoirs, storage tanks, channels, tunnels, conduits, pipes, hydrants, meters, or other appurtenances for supplying or distributing a domestic water supply.

(i) Mains, services, pipes, fittings, valves, regulators, governors, meters, drips, drains, tanks, ditches, tunnels, conduits, channels, or other appurtenances for supplying or distributing a domestic or industrial gas supply.

(j) The construction or maintenance of bomb shelters or fallout shelters that are primarily designed to protect and shelter the population from conventional or nuclear bomb or missile warhead explosions, shellfire, radiation, and fallout in the event of an enemy attack.

(k) Retaining walls, embankments, buildings, and any other structures or facilities necessary or suitable in connection with any of the work mentioned in this section.

(l) The planting of trees, shrubs, or other ornamental vegetation.

(m) The construction, repairing, maintaining, or improving of public mooring places for watercraft, channel improvements, and the building, repairing, maintaining, and improving of wharves, piers, docks, slips, quays, moles, port access routes, or other utilities, structures, and appliances necessary or convenient for the promotion or accommodation of commerce, navigation, and the protection of lands within the city, and for aiding and securing access to the waters of those lands to the people of the State of California, in the exercise of their rights to fish, or for the extension of public streets or places.

(n) Compaction of land, change of grade or contours, construction of caissons, retaining walls, drains, and other structures suitable for the purpose of stabilizing land.

(o) All other work that may be deemed necessary to improve the whole or any portion of those streets, places, public ways, property, easements, or rights-of-way owned by the city.

(p) All other work auxiliary to any of the above, which may be required to carry out the above.

SEC. 339. Section 8833 of the Streets and Highways Code is amended to read:

8833. (a) When any foreclosure actions are ordered by the local agency or legislative body, or when subsequent installments and interest that are also to be made the subject of a foreclosure action thereafter become delinquent, and the foreclosure action is not commenced and a notice of pendency of action is not concurrently recorded, prior to the actual removal of the delinquent installment from the tax roll, the local agency or legislative body responsible for the foreclosure action on the delinquent installment shall do one of the following:

(1) Prior to the actual removal of the delinquent installment from the tax roll, the local agency or legislative body shall record or cause to have recorded in the county recorder's office in the county in which the real property is located, a Notice of Intent to Remove Delinquent Assessment Installment from the Tax Roll, which contains the information set forth in subdivision (b). If action is taken under this paragraph, all of the following apply:

(A) Upon presentation of written proof of the recordation and a request for removal by the local agency or legislative body, the county auditor shall remove the delinquent installments from the tax roll. "Proof of recordation" includes, but is not limited to, a certified copy of the notice set forth in subdivision (b), or a copy of the recorded notice containing the county recorder's assigned document number, or a copy of the recorded notice containing a copy stamp from the office of the county recorder.

(B) From the date of the recordation, the county tax collector shall be credited upon the current assessment roll with the amount charged against him or her on account of the delinquent assessments or reassessments. If any person pays the delinquent installment referred to in the Notice of Intent to Remove Delinquent Assessment Installment from the Tax Roll to the county auditor prior to or subsequent to the actual removal of that delinquent installment from the tax roll, the county tax collector shall forward that payment to the local agency or legislative body responsible for the foreclosure action.

(C) From the date of recordation pursuant to this section, the assessment or reassessment or installment thereof or interest thereon,

and penalties, costs, fees, and other charges accrued under applicable statutes, that are to be collected in a foreclosure action, shall no longer be collectible by the county tax collector.

(D) The county tax collector, in addition to the costs recovered in foreclosure, may charge the actual costs incurred in removing these sums from the tax roll or the performance of any other related duties as set forth in this section.

(E) Installments, interest, penalties, costs, fees, and other charges that do not become the subject of a foreclosure action shall remain collectible by the county tax collector as otherwise provided by applicable law.

(2) As an alternative to the notice requirement set forth in paragraph (1), the Counties of San Bernardino and Riverside may, simultaneously with the removal of the delinquent special assessment installment from the secured tax roll, provide notification on the secured tax roll that the installment has been removed from the roll for each parcel for which the delinquent special tax assessment was removed. The notice shall be displayed in a manner that conveys that the removal has occurred, and shall include the name and telephone number of the person or entity to be contacted to receive further information.

(b) The Notice of Intent to Remove Delinquent Assessment Installment from the Tax Roll shall be completed and recorded by or caused to be recorded by the local agency or legislative body responsible for the foreclosure action, and shall contain all of the following:

(1) The name of the local agency or legislative body, city, or other assessment district responsible for the foreclosure action.

(2) The legal description or assessor's parcel number of the property affected by the notice.

(3) The specific tax year and installment intended to be removed from the tax roll.

(4) The title, address, and telephone number of the employee, city official, or other authorized official who should be contacted regarding the delinquent assessment installment amount.

(5) The name of the owner shown on the last equalized assessment roll.

(c) Any local agency or legislative body that removed or caused to be removed a delinquent assessment installment from the ad valorem tax roll prior to January 1, 1997, shall record, by July 1, 1997, a Notice of Intent to Remove Delinquent Assessment Installment from the Tax Roll or shall request the tax collector to retain the notice of delinquent assessment installment on the tax roll as set forth in paragraph (2) of subdivision (a). If the foreclosure action has been filed and a notice of pendency of action has been recorded in the county recorder's office prior to July 1, 1997, this requirement does not apply.

(d) All costs associated with the county tax collector's and local agency's responsibilities as set forth in this section shall be recoverable by the local agency or legislative body through the foreclosure action.

(e) The recording of a notice of pendency of action in the county recorder's office in the county in which the real property is located, concurrent with the commencement of a foreclosure action ordered by the local agency or legislative body and commenced prior to the actual removal from the tax roll of the delinquent installment that is the subject of the foreclosure action, constitutes compliance with the notice requirements of this section.

SEC. 340. Section 10100.2 of the Streets and Highways Code is amended to read:

10100.2. (a) (1) Whenever the public interest or convenience requires, the legislative body may use the powers of this division to pay, or make funds available to enable the owners of lots or parcels of real property within the district to pay, for either of the following:

(A) Work deemed necessary to bring real property or buildings, including privately owned real property or buildings, into compliance with seismic safety standards or regulations. The legislative body shall declare that public loans or funds provided to owners of private buildings for seismic strengthening of unreinforced buildings or other buildings, or real property, pursuant to this section constitute a public purpose resulting in a public benefit. Only work certified as necessary to comply with seismic safety standards or regulations by local building officials may be financed. No project involving the dismantling of an existing building and its replacement by a new building or the construction of a new or substantially new building may be financed pursuant to this section, except as otherwise provided in subparagraph (B). Work on qualified historical buildings or structures shall be done in accordance with the State Historical Building Code (Part 2.7 (commencing with Section 18950) of Division 13 of the Health and Safety Code). Any financing for seismic strengthening of a residential structure containing units rented by households specified in Section 50079.5 of the Health and Safety Code before strengthening shall be subject to a regulatory agreement that will ensure that the number of those units in the structure will not be reduced and will remain available at affordable rents pursuant to Section 50053 of the Health and Safety Code as long as any assessments levied pursuant to this section on the parcel on which the structure is located remain unpaid.

No lot, parcel, or building shall be included in the district without the owner's consent.

(B) Within any area that has been designated by the Governor as a disaster area or for which the Governor has proclaimed the existence of a state of emergency because of earthquake damage, work deemed

necessary to repair any damage to real property directly or indirectly caused by the occurrence of an earthquake cited in the Governor's designation or proclamation, or by aftershocks associated with that earthquake, including work to reconstruct, repair, shore up, or replace any real property or building damaged or destroyed by the earthquake or by its aftershocks. Work may be financed pursuant to this subparagraph only on real property or buildings identified in a resolution of intention to establish a district adopted within seven years of the date that the Governor designates the area as a disaster area or proclaims a state of emergency in the area.

(2) Any district created to finance seismic safety work on privately owned buildings, including repair, reconstruction, or replacement of privately owned buildings pursuant to this section, shall consist only of lots or parcels on which the legislative body finds that the buildings to be worked on, repaired, reconstructed, or replaced pursuant to this section, are located or were located before being damaged or destroyed by the earthquake that is the subject of the Governor's designation or proclamation pursuant to subparagraph (B) of paragraph (1), or by the aftershocks of that earthquake.

(3) The Legislature hereby declares that the use of public funds pursuant to this section for seismic strengthening, repair, or reconstruction of privately owned real property or buildings constitutes a public purpose resulting in a public benefit. The use of funds pursuant to this section shall not be construed to be gifts of public funds in violation of Section 6 of Article XVI of the California Constitution.

(4) A loan or expenditure of funds made by a district pursuant to this section and secured by a tax assessment or a lien, or both that assessment and lien, on private property shall not, when combined with existing liens on the property, exceed 80 percent of the current appraised value of the property, as determined by an independent, certified appraiser, unless existing lienholders consent in writing to a higher loan-to-value ratio. Notice of the creation of a district or the authorization for the loan or expenditure of funds for the purposes set forth in this section shall be given to lienholders of record on the property included in the district at least 30 days prior to any vote of the governing body authorizing the creation of the district or the loan or expenditure of funds that could create a lien on the property.

(b) A district created to finance seismic safety or repair work pursuant to this section may include areas of territory that are not contiguous.

(c) At any time after the passage of the resolution provided for in subdivision (a) of Section 10312, the legislative body may make changes in or modify the improvements or reduce the assessment with respect to a particular lot or parcel within an assessment district created

for the purposes of this section with the written consent of the owner of that lot or parcel.

(d) Any changes made within an assessment district created for the purposes of this section shall be made after notice and hearing, as provided in this division, except that changes may be made under any of the following circumstances:

(1) At the hearing on the report, changes that do any of the following:

(A) Eliminate a portion of the assessment district without increasing the amount of any assessment or substantially affecting the distribution of benefits from the improvements.

(B) Exclude territory that will not be benefited by the remaining improvements without increasing the amount of any assessment.

(C) Modify the improvements or the assessment with respect to a particular lot or parcel within the assessment district with the written consent of the owner and without increasing the assessments on any other real property.

(2) At any time after the improvements are ordered and during the pendency of the proceedings to establish the assessment district.

(3) At any time after the adoption of the resolution provided for in subdivision (a) of Section 10312, to modify the improvements or reduce the assessment with respect to a particular lot or parcel within the assessment district with the written consent of the owner.

(e) An action to determine the validity of any assessments, bonds, bond anticipation notes, contracts, or improvements for the purposes of this section may be brought by the legislative body, or by any person designated by the legislative body, pursuant to Chapter 9 (commencing with Section 860) of Title 10 of the Code of Civil Procedure. For this purpose, an improvement shall be deemed to be in existence upon its authorization and an assessment upon its confirmation.

(f) It is the intent of the Legislature that the powers conferred by this section shall be in addition and supplemental to, and not exclusive of, the powers conferred by any other law.

SEC. 341. Section 31071 of the Streets and Highways Code is amended to read:

31071. (a) The department may enter into financing agreements with the bank for the purpose of borrowing funds to finance or refinance the seismic retrofit project costs identified in paragraph (4) of subdivision (a) of Section 188.5. The bank may issue bonds for this purpose, pursuant to the authority granted to it under Chapter 5 (commencing with Section 63070) of Division 1 of Title 6.7 of the Government Code, and deposit the proceeds from the bonds into the account. The amount of borrowing may be increased to fund necessary reserves, capitalized interest, interim bonds, including, but not limited to, commercial paper, costs of issuance, and administrative, financial,

legal, and incidental services related to the bonds. The department shall pursue the most cost-effective and efficient financing plan for the bridge work identified in paragraph (4) of subdivision (a) of Section 188.5.

(b) To the extent provided in the governing documents, each of the bonds issued under this section shall be payable from, and secured by, all or a portion of the toll surcharge revenue in the account and the assets in that account.

(c) Prior to the issuance of bonds payable from the toll surcharge, the bank shall confirm that bonds issued under Chapter 4.3 (commencing with Section 30950) shall not be impaired solely by action taken under this section, as evidenced by confirmation of the then existing ratings on these bonds, by the rating agencies then rating the bonds. This requirement shall not apply if the voters approve an increase in the toll rate pursuant to subdivision (b) of Section 30921.

SEC. 342. 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. 343. Section 3305 of the Unemployment Insurance Code is amended to read:

3305. If the director finds that any individual falsely certifies the medical condition of any person in order to obtain family temporary disability insurance benefits, with the intent to defraud, whether for the maker or for any other person, the director shall assess a penalty against the individual in the amount of 25 percent of the benefits paid as a result of the false certification. The provisions of Article 8 (commencing with Section 1126) of Chapter 4 of Part 1, with respect to assessments, the provisions of Article 9 (commencing with Section 1176) of Chapter 4 of Part 1, with respect to refunds, and the provisions of Chapter 7 (commencing with Section 1701) of Part 1, with respect to collections, shall apply to the assessments provided by this section. Penalties collected under this section shall be deposited in the contingent fund.

SEC. 344. Section 10200 of the Unemployment Insurance Code is amended to read:

10200. The Legislature finds and declares the following:

(a) California's economy is being challenged by competition from other states and overseas. In order to meet this challenge, California's employers, workers, labor organizations, and government need to invest in a skilled and productive workforce, and in developing the skills of frontline workers. For purposes of this section, "frontline worker" means a worker who directly produces or delivers goods or services.

The purpose of this chapter is to establish a strategically designed employment training program to promote a healthy labor market in a growing, competitive economy that shall fund only projects that meet the following criteria:

(1) (A) Foster creation of high-wage, high-skilled jobs, or foster retention of high-wage, high-skilled jobs in manufacturing and other industries that are threatened by out-of-state and global competition, including, but not limited to, those industries in which targeted training resources for California's small and medium-sized business suppliers will increase the state's competitiveness to secure federal, private sector, and other nonstate funds.

(B) Provide for retraining contracts in companies that make a monetary or in-kind contribution to the funded training enhancements.

(2) Encourage industry-based investment in human resources development that promotes the competitiveness of California industry through productivity and product quality enhancements.

(3) Result in secure jobs for those who successfully complete training. All training shall be customized to the specific requirements of one or more employers or a discrete industry and shall include general skills that trainees can use in the future.

(4) Supplement, rather than displace, funds available through existing programs conducted by employers and government-funded training programs, such as the Workforce Investment Act of 1998 (29 U.S.C. Sec. 2801 et. seq.), the Carl D. Perkins Vocational Education Act (P.L. 98-524), CalWORKs (Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code), the Enterprise Zone Act (Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code), and the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. Sec. 290aa), the California Community Colleges Economic Development Program, or apportionment funds allocated to the community colleges, regional occupational centers and programs, or other local educational agencies. In addition, it is further the intention of the Legislature that programs developed pursuant to this chapter shall not replace, parallel, supplant, compete with, or duplicate in any way already existing approved apprenticeship programs.

(b) The Employment Training Panel, in funding projects that meet the requirements of subdivision (a), shall give funding priority to those projects that best meet the following goals:

(1) Result in the growth of the California economy by stimulating exports from the state, and the production of goods and services that would otherwise be imported from outside the state.

(2) Train new employees of firms locating or expanding in the state that provide high-skilled, high-wage jobs and are committed to an ongoing investment in the training of frontline workers.

(3) Develop workers with skills that prepare them for the challenges of a high performance workplace of the future.

(4) Train workers who have been displaced, have received notification of impending layoff, or are subject to displacement, because of a plant closure, workforce reduction, changes in technology, or significantly increasing levels of international and out-of-state competition.

(5) Are jointly developed by business management and worker representatives.

(6) Develop career ladders for workers.

(7) Promote the retention and expansion of the state's manufacturing workforce.

(c) The program established through this chapter is to be coordinated with all existing employment training programs and economic development programs, including, but not limited to, programs such as the Workforce Investment Act of 1998 (29 U.S.C. Sec. 2801 et. seq.), the California Community Colleges, the regional occupational programs, vocational education programs, joint labor-management training programs, and related programs under the Employment Development Department and the Technology, Trade, and Commerce Agency, or any successor to that agency.

SEC. 345. Section 2813.5 of the Vehicle Code is amended to read:

2813.5. (a) The commissioner shall have exclusive authority in the issuance of stickers as evidence that commercial vehicles have been inspected pursuant to Section 2813 and have been found to be in compliance with minimum safety standards established by the department. The commissioner may make and enforce regulations with respect to the issuance and display of the stickers upon commercial vehicles.

(b) It is unlawful for any unauthorized person, company, corporation, or public or private entity to possess, issue, or display upon a vehicle an unauthorized commercial vehicle safety inspection sticker or a sticker that is either a facsimile of, or is substantially similar to, that issued by the commissioner.

(c) Any violation of subdivision (b) is a misdemeanor.

SEC. 346. Section 3072 of the Vehicle Code is amended to read:

3072. (a) (1) Except as otherwise provided in subdivision (b), if a franchisor seeks to enter into a franchise establishing an additional motor vehicle dealership within a relevant market area where the same recreational vehicle line-make is then represented, or seeks to relocate an existing motor vehicle dealership, the franchisor shall, in writing, first notify the board and each franchisee in that recreational vehicle line-make in the relevant market area of the franchisor's intention to establish an additional dealership or to relocate an existing dealership within or into that market area. Within 20 days of receiving the notice, satisfying the requirements of this section, or within 20 days after the end of any appeal procedure provided by the franchisor, any franchisee required to be given the notice may file with the board a protest to establishing or relocating the dealership. If, within this time, a franchisee files with the board a request for additional time to file a protest, the board or its secretary, upon a showing of good cause, may grant an additional 10 days to file the protest. When a protest is filed, the board shall inform the franchisor that a timely protest has been filed, that a hearing is required pursuant to Section 3066, and that the franchisor shall not establish or relocate the proposed dealership until the board has held a hearing as provided in Section 3066, nor thereafter, if the board has determined that there is good cause for not permitting the dealership. In the event of multiple protests, hearings may be consolidated to expedite the disposition of the issue.

(2) The written notice shall contain, on the first page thereof in at least 12-point bold type and circumscribed by a line to segregate it from the rest of the text, the following statement:

“NOTICE TO DEALER: You have the right to file a protest with the NEW MOTOR VEHICLE BOARD in Sacramento and have a hearing on your protest under the terms of the California Vehicle Code if you oppose this action. You must file your protest with the board within 20 days of your receipt of this notice, or within 20 days after the end of any appeal procedure that is provided by us to you. If, within this time, you file with the board a request for additional time to file a protest, the board or its secretary, upon a showing of good cause, may grant you an additional 10 days to file the protest.”

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

(1) The relocation of an existing dealership to any location that is both within the same city as, and within one mile of, the existing dealership location.

(2) The establishment at any location that is both within the same city as, and within one-quarter mile of, the location of a dealership of the same recreational vehicle line-make that has been out of operation for less than 90 days.

(3) A display of vehicles at a fair, exposition, or similar exhibit if no actual sales are made at the event and the display does not exceed 30 days. This paragraph may not be construed to prohibit a new vehicle dealer from establishing a branch office for the purpose of selling vehicles at the fair, exposition, or similar exhibit, even though that event is sponsored by a financial institution, as defined in Section 31041 of the Financial Code, or by a financial institution and a licensed dealer. The establishment of these branch offices, however, shall be in accordance with subdivision (a) where applicable.

(4) An annual show sponsored by a national trade association of recreational vehicle manufacturers that complies with all of the requirements of subdivision (d) of Section 11713.15.

(5) A motor vehicle dealership protesting the location of another dealership with the same recreational vehicle line-make within its relevant market area, if the dealership location subject to the protest was established on or before January 1, 2004.

(c) For the purposes of this section, the reopening of a dealership that has not been in operation for one year or more shall be deemed the establishment of an additional motor vehicle dealership.

(d) For the purposes of this section and Section 3073, a “motor vehicle dealership” or “dealership” is any authorized facility at which a franchisee offers for sale or lease, displays for sale or lease, or sells or leases new recreational vehicles, as defined in subdivision (a) of Section 18010 of the Health and Safety Code. A “motor vehicle dealership” or “dealership” does not include a dealer who deals exclusively in truck campers.

SEC. 347. Section 9250.13 of the Vehicle Code is amended to read:

9250.13. (a) (1) In addition to any other fees specified in this code and the Revenue and Taxation Code, a fee of six dollars (\$6) shall be paid at the time of registration or renewal of registration of every vehicle, except vehicles described in subdivision (a) of Section 5014.1, subject to registration under this code, except those vehicles that are expressly exempted under this code from the payment of registration fees.

(2) In addition to the fee required under paragraph (1), upon the implementation of the permanent trailer identification plate program, and as part of the Commercial Vehicle Registration Act of 2001 (Chapter 861 of the Statutes of 2000), all commercial motor vehicles subject to Section 9400.1 shall pay a fee of six dollars (\$6).

(b) The money realized pursuant to this section shall be available, upon appropriation by the Legislature, for expenditure to offset the costs of increasing the uniformed field strength of the Department of the California Highway Patrol beyond its 1994 staffing level and those costs associated with maintaining this new level of uniformed field strength

and carrying out those duties specified in subdivision (a) of Section 830.2 of the Penal Code.

SEC. 348. Section 9400.1 of the Vehicle Code is amended to read:

9400.1. (a) (1) In addition to any other required fee, there shall be paid the fees set forth in this section for the registration of commercial motor vehicles operated either singly or in combination with a declared gross vehicle weight of 10,001 pounds or more. Pickup truck and electric vehicle weight fees are not calculated under this section.

(2) The weight of a vehicle issued an identification plate pursuant to an application under Section 5014, and the weight of an implement of husbandry as defined in Section 36000, shall not be considered when calculating, pursuant to this section, the declared gross vehicle weight of a towing commercial motor vehicle that is owned and operated exclusively by a farmer or an employee of a farmer in the conduct of agricultural operations.

(3) Tow trucks that are utilized to render assistance to the motoring public or to tow or carry impounded vehicles shall pay fees in accordance with this section, except that the fee calculation shall be based only on the gross vehicle weight rating of the towing or carrying vehicle. Upon each initial or transfer application for registration of a tow truck described in this paragraph, the registered owner or lessee or that owner's or lessee's designee, shall certify to the department the gross vehicle weight rating of the tow truck:

Gross Vehicle Weight Range	Fee
10,001–15,000	\$ 257
15,001–20,000	353
20,001–26,000	435
26,001–30,000	552
30,001–35,000	648
35,001–40,000	761
40,001–45,000	837
45,001–50,000	948
50,001–54,999	1,039
55,000–60,000	1,173
60,001–65,000	1,282
65,001–70,000	1,398
70,001–75,000	1,650
75,001–80,000	1,700

(b) The fees specified in subdivision (a) apply to both of the following:

(1) An initial or original registration occurring on or after December 31, 2001, to December 30, 2003, inclusive, of a commercial motor vehicle operated either singly or in combination with a declared gross vehicle weight of 10,001 pounds or more.

(2) The renewal of registration of a commercial motor vehicle operated either singly or in combination, with a declared gross vehicle weight of 10,001 pounds or more for which registration expires on or after December 31, 2001, to December 30, 2003, inclusive.

(c) (1) For both an initial or original registration occurring on or after December 31, 2003, of a commercial motor vehicle operated either singly or in combination with a declared gross vehicle weight of 10,001 pounds or more, and the renewal of registration of a commercial motor vehicle operated either singly or in combination, with a declared gross vehicle weight of 10,001 pounds or more for which registration expires on or after December 31, 2003, there shall be paid fees as follows:

Gross Vehicle Weight Range	Weight Code	Fee
10,001–15,000	A	\$ 332
15,001–20,000	B	447
20,001–26,000	C	546
26,001–30,000	D	586
30,001–35,000	E	801
35,001–40,000	F	937
40,001–45,000	G	1,028
45,001–50,000	H	1,161
50,001–54,999	I	1,270
55,000–60,000	J	1,431
60,001–65,000	K	1,562
65,001–70,000	L	1,701

70,001–75,000	M	2,004
75,001–80,000	N	2,064

(2) For the purpose of obtaining “revenue neutrality” as described in Sections 1 and 59 of Senate Bill 2084 of the 1999–2000 Regular Session (Chapter 861 of the Statutes of 2000), the Director of Finance shall review the final 2003–04 Statement of Transactions of the State Highway Account. If that review indicates that the actual truck weight fee revenues deposited in the State Highway Account do not total at least seven hundred eighty-nine million dollars (\$789,000,000), the Director of Finance shall instruct the department to adjust the schedule set forth in paragraph (1), but not to exceed the following fee amounts:

Gross Vehicle Weight Range	Weight Code	Fee
10,001–15,000	A	\$ 354
15,001–20,000	B	482
20,001–26,000	C	591
26,001–30,000	D	746
30,001–35,000	E	874
35,001–40,000	F	1,024
40,001–45,000	G	1,125
45,001–50,000	H	1,272
50,001–54,999	I	1,393
55,000–60,000	J	1,571
60,001–65,000	K	1,716
65,001–70,000	L	1,870

1390	STATUTES OF 2004	[Ch. 183]
70,001–75,000	M	2,204
75,001–80,000	N	2,271

(d) (1) In addition to the fees set forth in subdivision (a), a Cargo Theft Interdiction Program Fee of three dollars (\$3) shall be paid at the time of initial or original registration or renewal of registration of each motor vehicle subject to weight fees under this section.

(2) This subdivision does not apply to vehicles used or maintained for the transportation of persons for hire, compensation or profit, and tow trucks.

(3) For vehicles registered under Article 4 (commencing with Section 8050) of Chapter 4, the fee imposed under this subdivision shall be apportioned as required for registration fees under that article.

(4) Funds collected pursuant to the Cargo Theft Interdiction Program shall not be proportionately reduced for each month and shall be transferred to the Motor Carriers Safety Improvement Fund.

(e) Notwithstanding Section 42270 or any other provision of law, of the moneys collected by the department under this section, one hundred twenty-two dollars (\$122) for each initial, original, and renewal registration shall be reported monthly to the Controller, and at the same time, deposited in the State Treasury to the credit of the Motor Vehicle Account in the State Transportation Fund. All other moneys collected by the department under this section shall be deposited to the credit of the State Highway Account in the State Transportation Fund. One hundred twenty-two dollars (\$122) of the fee imposed under this section shall not be proportionately reduced for each month. For vehicles registered under Article 4 (commencing with Section 8050) of Chapter 4, the fee shall be apportioned as required for registration under that article.

(f) (1) The department, in consultation with the Department of the California Highway Patrol, shall design and make available a set of distinctive weight decals that reflect the declared gross combined weight or gross operating weight reported to the department at the time of initial registration, registration renewal, or when a weight change is reported to the department pursuant to 9406.1. A new decal shall be issued on each renewal or when the weight is changed pursuant to Section 9406.1. The decal for a tow truck that is subject to this section shall reflect the gross vehicle weight rating or weight code.

(2) The department may charge a fee, not to exceed ten dollars (\$10), for the department's actual cost of producing and issuing each set of decals issued under paragraph (1).

(3) The weight decal shall be in sharp contrast to the background and shall be of a size, shape, and color that is readily legible during daylight hours from a distance of 50 feet.

(4) Each vehicle subject to this section shall display the weight decal on both the right and left sides of the vehicle.

(5) A person may not display upon a vehicle a decal issued pursuant to this subdivision that does not reflect the declared weight reported to the department.

(6) Notwithstanding subdivision (e) or any other provision of law, the moneys collected by the department under this subdivision shall be deposited in the State Treasury to the credit of the Motor Vehicle Account in the State Transportation Fund.

(7) This subdivision shall apply to vehicles subject to this section at the time of an initial registration, registration renewal, or reported weight change that occurs on or after July 1, 2004.

SEC. 349. Section 9400.3 of the Vehicle Code is amended to read:

9400.3. (a) In order to ensure that Chapter 973 of the Statutes of 2000 is implemented as originally intended by the Legislature, the department may not assess the Cargo Theft Interdiction Program fee upon any commercial motor vehicle that has a declared gross vehicle weight of less than 10,001 pounds.

(b) The department shall issue refunds of, or credits for, any Cargo Theft Interdiction Program fee that is assessed upon a vehicle that does not meet the minimum weights described in Section 9400.1 or is a pickup truck or an electric vehicle.

SEC. 350. Section 9951 of the Vehicle Code is amended to read:

9951. (a) A manufacturer of a new motor vehicle sold or leased in this state that is equipped with one or more recording devices commonly referred to as “event data recorders (EDR)” or “sensing and diagnostic modules (SDM),” shall disclose that fact in the owner’s manual for the vehicle.

(b) As used in this section, “recording device” means a device that is installed by the manufacturer of the vehicle and does one or more of the following, for the purpose of retrieving data after an accident:

(1) Records how fast and in which direction the motor vehicle is traveling.

(2) Records a history of where the motor vehicle travels.

(3) Records steering performance.

(4) Records brake performance, including, but not limited to, whether brakes were applied before an accident.

(5) Records the driver’s seatbelt status.

(6) Has the ability to transmit information concerning an accident in which the motor vehicle has been involved to a central communications system when an accident occurs.

(c) Data described in subdivision (b) that is recorded on a recording device may not be downloaded or otherwise retrieved by a person other than the registered owner of the motor vehicle, except under one of the following circumstances:

(1) The registered owner of the motor vehicle consents to the retrieval of the information.

(2) In response to an order of a court having jurisdiction to issue the order.

(3) For the purpose of improving motor vehicle safety, including for medical research of the human body's reaction to motor vehicle accidents, and the identity of the registered owner or driver is not disclosed in connection with that retrieved data. The disclosure of the vehicle identification number (VIN) for the purpose of improving vehicle safety, including for medical research of the human body's reaction to motor vehicle accidents, does not constitute the disclosure of the identity of the registered owner or driver.

(4) The data is retrieved by a licensed new motor vehicle dealer, or by an automotive technician as defined in Section 9880.1 of the Business and Professions Code, for the purpose of diagnosing, servicing, or repairing the motor vehicle.

(d) A person authorized to download or otherwise retrieve data from a recording device pursuant to paragraph (3) of subdivision (c), may not release that data, except to share the data among the motor vehicle safety and medical research communities to advance motor vehicle safety, and only if the identity of the registered owner or driver is not disclosed.

(e) (1) If a motor vehicle is equipped with a recording device that is capable of recording or transmitting information as described in paragraph (2) or (6) of subdivision (b) and that capability is part of a subscription service, the fact that the information may be recorded or transmitted shall be disclosed in the subscription service agreement.

(2) Subdivision (c) does not apply to subscription services meeting the requirements of paragraph (1).

(f) This section applies to all motor vehicles manufactured on or after July 1, 2004.

SEC. 351. Section 11515.2 of the Vehicle Code is amended to read:

11515.2. (a) If an insurance company makes a total loss settlement on a nonrepairable vehicle and takes possession of that vehicle, either itself or through an agent, the insurance company, an occupational licensee of the department authorized by the insurance company, or a salvage pool authorized by the insurance company, shall, within 10 days after receipt of title by the insurer, free and clear of all liens, forward the properly endorsed certificate of ownership or other evidence of ownership acceptable to the department, the license plates, and a fee in the amount of fifteen dollars (\$15) to the department. An occupational

licensee of the department may submit a certificate of license plate destruction in lieu of the actual license plate. The department, upon receipt of the certificate of ownership or other evidence of title, the license plates, and the fee, shall issue a nonrepairable vehicle certificate for the vehicle.

(b) If the owner of a nonrepairable vehicle retains possession of the vehicle, the insurance company shall notify the department of the retention on a form prescribed by the department. The insurance company shall also notify the insured or owner of the insured's or owner's responsibility to comply with this subdivision. The owner shall, within 10 days from the settlement of the loss, forward the properly endorsed certificate of ownership or other evidence of ownership acceptable to the department, the license plates, and a fee in the amount of fifteen dollars (\$15) to the department. The department, upon receipt of the certificate of ownership or other evidence of title, the license plates, and the fee, shall issue a nonrepairable vehicle certificate for the vehicle.

(c) If a nonrepairable vehicle is not the subject of an insurance settlement, the owner shall, within 10 days from the loss, forward the properly endorsed certificate of ownership or other evidence of ownership acceptable to the department, the license plates, and a fee in the amount of fifteen dollars (\$15) to the department.

(d) If a nonrepairable vehicle is not the subject of an insurance settlement, a self-insurer, as defined in Section 16052, shall, within 10 days of the loss, forward the properly endorsed certificate of ownership or other evidence of ownership acceptable to the department, the license plates, and a fee in the amount of fifteen dollars (\$15) to the department.

(e) Prior to sale or disposal of a nonrepairable vehicle, the owner, owner's agent, or salvage pool shall obtain a properly endorsed nonrepairable vehicle certificate and deliver it to the purchaser within 10 days after payment in full for the nonrepairable vehicle and shall also comply with Section 5900. The department shall accept the endorsed nonrepairable vehicle certificate in lieu of the certificate of ownership or other evidence of ownership when accompanied by an application and other documents and fees, including, but not limited to, the fees required by Section 9265, as may be required by the department.

(f) This section does not apply to a vehicle that has been driven or taken without the consent of the owner thereof, until the vehicle has been recovered by the owner and only if the vehicle is a nonrepairable vehicle.

(g) A nonrepairable vehicle certificate shall be conspicuously labeled with the words "NONREPAIRABLE VEHICLE" across the front of the certificate.

(h) A violation of subdivision (a), (b), (d), or (e) is a misdemeanor, pursuant to Section 40000.11. Notwithstanding Section 40000.11, a

violation of subdivision (c) is an infraction, except that, if committed with intent to defraud, a violation of subdivision (c) is a misdemeanor.

SEC. 352. Section 12509 of the Vehicle Code is amended to read:

12509. (a) Except as otherwise provided in subdivision (f) of Section 12514, the department, for good cause, may issue an instruction permit to any physically and mentally qualified person who meets one of the following requirements and who applies to the department for an instruction permit:

(1) Is age 15 years and 6 months or older and has successfully completed approved courses in automobile driver education and driver training as provided in paragraph (3) of subdivision (a) of Section 12814.6.

(2) Is age 15 years and 6 months or older and has successfully completed an approved course in automobile driver education and is taking driver training as provided in paragraph (3) of subdivision (a) of Section 12814.6.

(3) Is age 15 years and 6 months and enrolled and participating in an integrated driver education and training program as provided in subparagraph (B) of paragraph (3) of subdivision (a) of Section 12814.6.

(4) Is over the age of 16 years and is applying for a restricted driver's license pursuant to Section 12814.7.

(5) Is over the age of 17 years and 6 months.

(b) The applicant shall qualify for and be issued an instruction permit within 12 months from the date of the application.

(c) An instruction permit issued pursuant to subdivision (a) shall entitle the applicant to operate a vehicle, subject to the limitations imposed by this section and any other provisions of law, upon the highways for a period not exceeding 24 months from the date of the application.

(d) Except as provided in Section 12814.6, any person, while having in his or her immediate possession a valid permit issued pursuant to paragraphs (1) to (3), inclusive, of subdivision (a), may operate a motor vehicle, other than a motorcycle or a motorized bicycle, when accompanied by, and under the immediate supervision of, a California licensed driver with a valid license of the appropriate class, 18 years of age or older whose driving privilege is not on probation. Except as provided in subdivision (e), an accompanying licensed driver at all times shall occupy a position within the driver's compartment that would enable the accompanying licensed driver to assist the person in controlling the vehicle as may be necessary to avoid a collision and to provide immediate guidance in the safe operation of the vehicle.

(e) Any person, while having in his or her immediate possession a valid permit issued pursuant to paragraphs (1) to (3), inclusive, of subdivision (a), who is age 15 years and 6 months or older and who has

successfully completed approved courses in automobile driver education and driver training as provided in paragraph (3) of subdivision (a) of Section 12814.6, and any person, while having in his or her immediate possession a valid permit issued pursuant to subdivision (a), who is age 17 years and 6 months or older, may, in addition to operating a motor vehicle pursuant to subdivision (d), also operate a motorcycle or a motorized bicycle, except that the person shall not operate a motorcycle or a motorized bicycle during hours of darkness, shall stay off any freeways that have full control of access and no crossings at grade, and shall not carry any passenger except an instructor licensed under Chapter 1 (commencing with Section 11100) of Division 5 of this code or a qualified instructor as defined in Section 41907 of the Education Code.

(f) Any person, while having in his or her immediate possession a valid permit issued pursuant to paragraph (4) of subdivision (a), may only operate a government-owned motor vehicle, other than a motorcycle or a motorized bicycle, when taking the driver training instruction administered by the California National Guard as required by paragraph (2) of subdivision (a) of Section 12814.7.

(g) The department may also issue an instruction permit to a person who has been issued a valid driver's license to authorize the person to obtain driver training instruction and to practice that instruction in order to obtain another class of driver's license or an endorsement.

(h) The department may further restrict permits issued under subdivision (a) as it may determine to be appropriate to assure the safe operation of a motor vehicle by the permittee.

SEC. 353. Section 22100 of the Vehicle Code is amended to read:

22100. Except as provided in Section 22100.5 or 22101, the driver of any vehicle intending to turn upon a highway shall do so as follows:

(a) Right Turns. Both the approach for a right-hand turn and a right-hand turn shall be made as close as practicable to the right-hand curb or edge of the roadway except:

(1) Upon a highway having three marked lanes for traffic moving in one direction that terminates at an intersecting highway accommodating traffic in both directions, the driver of a vehicle in the middle lane may turn right into any lane lawfully available to traffic moving in that direction upon the roadway being entered.

(2) If a right-hand turn is made from a one-way highway at an intersection, a driver shall approach the turn as provided in this subdivision and shall complete the turn in any lane lawfully available to traffic moving in that direction upon the roadway being entered.

(3) Upon a highway having an additional lane or lanes marked for a right turn by appropriate signs or markings, the driver of a vehicle may

turn right from any lane designated and marked for that turning movement.

(b) Left Turns. The approach for a left turn shall be made as close as practicable to the left-hand edge of the extreme left-hand lane or portion of the roadway lawfully available to traffic moving in the direction of travel of the vehicle and, when turning at an intersection, the left turn shall not be made before entering the intersection. After entering the intersection, the left turn shall be made so as to leave the intersection in a lane lawfully available to traffic moving in that direction upon the roadway being entered, except that upon a highway having three marked lanes for traffic moving in one direction that terminates at an intersecting highway accommodating traffic in both directions, the driver of a vehicle in the middle lane may turn left into any lane lawfully available to traffic moving in that direction upon the roadway being entered.

SEC. 354. Section 25803 of the Vehicle Code is amended to read:

25803. (a) All vehicles not otherwise required to be equipped with headlamps, rear lights, or reflectors by this chapter shall, if operated on a highway during darkness, be equipped with a lamp exhibiting a red light visible from a distance of 500 feet to the rear of the vehicle. In addition, all of these vehicles operated alone or as the first vehicle in a combination of vehicles, shall be equipped with at least one lighted lamp exhibiting a white light visible from a distance of 500 feet to the front of the vehicle.

(b) A vehicle shall also be equipped with an amber reflector on the front near the left side and a red reflector on the rear near the left side. The reflectors shall be mounted on the vehicle not lower than 16 inches nor higher than 60 inches above the ground and so designed and maintained as to be visible during darkness from all distances within 500 feet from the vehicle when directly in front of a motor vehicle displaying lawful lighted headlamps undimmed.

(c) In addition, if a vehicle described in subdivision (a) or the load thereon has a total outside width in excess of 100 inches there shall be displayed during darkness at the left outer extremity at least one amber light visible under normal atmospheric conditions from a distance of 500 feet to the front, sides, and rear. At all other times there shall be displayed at the left outer extremity a solid red or fluorescent orange flag or cloth not less than 12 inches square.

SEC. 355. Section 31032.1 of the Water Code is amended to read:

31032.1. A district may fix, as an alternative to the charge prescribed by Section 31031, in each fiscal year, water standby or availability assessments of not to exceed thirty dollars (\$30) per acre per year for each acre of land, or thirty dollars (\$30) per year for each parcel of land less than an acre within the district to which water is made available for any purpose by the district, whether the water is actually

used or not. The board of directors of a district that fixes the assessment may establish schedules varying the assessment according to the land uses and the degree of availability or quantity of use of water to the affected lands, and may restrict the assessment to lands lying within one or more improvement districts within the district.

A district may elect to have the assessments for the fiscal year collected on the tax roll in the same manner, by the same persons and at the same time as, together with and not separately from, its general taxes. In that event, it shall cause a written report to be prepared and filed with the secretary which report shall contain a description of each parcel of real property and the amount of the assessment for each parcel for the year.

SEC. 356. Section 34620 of the Vehicle Code is amended to read:

34620. (a) Except as provided in subdivision (b) and Section 34622, no motor carrier of property shall operate a commercial motor vehicle on any public highway in this state, unless it has complied with Section 34507.5 and has registered with the department its carrier identification number authorized or assigned thereunder, and holds a valid motor carrier permit issued to that motor carrier by the department. The department shall issue a motor carrier permit upon the carrier's written request, compliance with Sections 34507.5, 34630, 34640, and subdivisions (e) and (h) of Section 34501.12, for motor carriers listed in that section, and the payment of the fee required by this chapter.

(b) No person shall contract with, or otherwise engage the services of, a motor carrier of property, unless that motor carrier holds a valid motor carrier of property permit issued by the department. No motor carrier of property shall contract or subcontract with, or otherwise engage the services of, another motor carrier of property, until the contracted motor carrier of property provides certification in the manner prescribed by this section, of compliance with subdivision (a). This certification shall be completed by the contracted motor carrier of property and shall include a provision requiring the contracted motor carrier of property to immediately notify the person to whom they are contracted if the contracted motor carrier of property's permit is suspended or revoked. A copy of the contracted motor carrier of property's permit shall accompany the required certificate. The Department of the California Highway Patrol shall, by regulation, prescribe the format for the certificate and may make available an optional specific form for that purpose. The certificate, or a copy thereof, shall be maintained by each involved party for the duration of the contract or period of service plus two years, and shall be presented for inspection at the location designated by each carrier under Section 34501.10, immediately upon the request of an authorized employee of the Department of the California Highway Patrol.

SEC. 357. Section 35401.7 of the Vehicle Code is amended to read: 35401.7. (a) The limitations of access specified in subdivision (d) of Section 35401.5 do not apply to licensed carriers of livestock when those carriers are directly en route to or from a point of loading or unloading of livestock on those portions of State Highway Route 101 located in the Counties of Del Norte, Humboldt, and Mendocino from its junction with State Highway Route 1 near Leggett north to the Oregon border, if the travel is necessary and incidental to the shipment of the livestock.

(b) The exemption allowed under this section does not apply unless both of the following conditions are met:

(1) The length of the truck tractor, in combination with the semitrailer used to transport the livestock, does not exceed a total of 70 feet.

(2) The distance from the kingpin to the rearmost axle of the semitrailer does not exceed 40 feet.

(c) The exemption allowed under this section does not apply to travel conducted on the day prior to, or on the day of, any federally recognized holiday.

(d) The Department of the California Highway Patrol, in consultation with the Department of Transportation and in accordance with recommendations from the Department of the California Highway Patrol's study issued on May 1, 2003, of the effects of the statutory exemption, shall continue the comprehensive study on the effect that the exemption provided under this section has on the public safety during the extended effective period of the exemption. The findings of this additional study shall be reported to the Legislature on or before January 1, 2006.

(e) 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. 358. Section 1552 of the Water Code is amended to read:

1552. The money in the Water Rights Fund is available for expenditure, upon appropriation by the Legislature, for the following purposes:

(a) For expenditure by the State Board of Equalization in the administration of this chapter and the Fee Collection Procedures Law (Part 30 (commencing with Section 55001) of Division 2 of the Revenue and Taxation Code) in connection with any fee or expense subject to this chapter.

(b) For the payment of refunds, pursuant to Part 30 (commencing with Section 55001) of Division 2 of the Revenue and Taxation Code, of fees or expenses collected pursuant to this chapter.

(c) For expenditure by the board for the purposes of carrying out this division, Division 1 (commencing with Section 100), Part 2

(commencing with Section 10500) of Division 6, and Article 7 (commencing with Section 13550) of Chapter 7 of Division 7.

(d) For expenditures by the board for the purposes of carrying out Sections 13160 and 13160.1 in connection with activities involving hydroelectric power projects subject to licensing by the Federal Energy Regulatory Commission.

(e) For expenditures by the board for the purposes of carrying out Sections 13140 and 13170 in connection with plans and policies that address the diversion or use of water.

SEC. 359. Section 12749.95 of the Water Code, as added by Chapter 730 of the Statutes of 2003, is amended and renumbered to read:

12749.97. Notwithstanding Sections 12749.93 and 12749.94, it is the intent of the Legislature that no funds be appropriated for state cooperation in the Murrieta Creek Flood Control Project before July 1, 2013.

SEC. 360. Section 13269 of the Water Code is amended to read:

13269. (a) (1) On and after January 1, 2000, the provisions of subdivisions (a) and (c) of Section 13260, subdivision (a) of Section 13263, or subdivision (a) of Section 13264 may be waived by the state board or a regional board as to a specific discharge or type of discharge if the state board or a regional board determines, after any necessary state board or regional board meeting, that the waiver is consistent with any applicable state or regional water quality control plan and is in the public interest. The state board or a regional board shall give notice of any necessary meeting by publication pursuant to Section 11125 of the Government Code.

(2) A waiver may not exceed five years in duration, but may be renewed by the state board or a regional board. The waiver shall be conditional and may be terminated at any time by the state board or a regional board. The conditions of the waiver shall include, but need not be limited to, the performance of individual, group, or watershed-based monitoring, except as provided in paragraph (3). Monitoring requirements shall be designed to support the development and implementation of the waiver program, including, but not limited to, verifying the adequacy and effectiveness of the waiver's conditions. In establishing monitoring requirements, the regional board may consider the volume, duration, frequency, and constituents of the discharge; the extent and type of existing monitoring activities, including, but not limited to, existing watershed-based, compliance, and effectiveness monitoring efforts; the size of the project area; and other relevant factors. Monitoring results shall be made available to the public.

(3) The state board or a regional board may waive the monitoring requirements described in this subdivision for discharges that it determines do not pose a significant threat to water quality.

(4) (A) The state board or a regional board may include as a condition of a waiver the payment of an annual fee established by the state board in accordance with subdivision (f) of Section 13260.

(B) Funds generated by the payment of the fee shall be deposited in the Waste Discharge Permit Fund for expenditure, upon appropriation by the Legislature, by the state board or appropriate regional board for the purpose of carrying out activities limited to those necessary to establish and implement the waiver program pursuant to this section. The total amount of annual fees collected pursuant to this section shall not exceed the costs of those activities necessary to establish and implement waivers of waste discharge requirements pursuant to this section.

(C) In establishing the amount of a fee that may be imposed on irrigated agriculture operations pursuant to this section, the state board shall consider relevant factors, including, but not limited to, all of the following:

- (i) The size of the operations.
- (ii) Any compliance costs borne by the operations pursuant to state and federal water quality regulations.
- (iii) Any costs associated with water quality monitoring performed or funded by the operations.
- (iv) Participation in a watershed management program approved by the applicable regional board.

(D) In establishing the amount of a fee that may be imposed on silviculture operations pursuant to this section, the state board shall consider relevant factors, including, but not limited to, all of the following:

- (i) The size of the operations.
- (ii) Any compliance costs borne by the operations pursuant to state and federal water quality regulations.
- (iii) Any costs associated with water quality monitoring performed or funded by the operations.
- (iv) The average annual number of timber harvest plans proposed by the operations.

(5) The state board or a regional board shall give notice of the adoption of a waiver by publication within the affected county or counties as set forth in Section 6061 of the Government Code.

(b) (1) A waiver in effect on January 1, 2000, shall remain valid until January 1, 2003, unless the regional board terminates that waiver prior to that date. All waivers that were valid on January 1, 2000, and granted an extension until January 1, 2003, and not otherwise terminated, may be renewed by a regional board in five-year increments.

(2) Notwithstanding paragraph (1), a waiver for an onsite sewage treatment system that is in effect on January 1, 2002, shall remain valid

until June 30, 2004, unless the regional board terminates the waiver prior to that date. Any waiver for onsite sewage treatment systems adopted or renewed after June 30, 2004, shall be consistent with the applicable regulations or standards for onsite sewage treatment systems adopted or retained in accordance with Section 13291.

(c) Upon notification of the appropriate regional board of the discharge or proposed discharge, except as provided in subdivision (d), the provisions of subdivisions (a) and (c) of Section 13260, subdivision (a) of Section 13263, and subdivision (a) of Section 13264 do not apply to a discharge resulting from any of the following emergency activities:

(1) Immediate emergency work necessary to protect life or property or immediate emergency repairs to public service facilities necessary to maintain service as a result of a disaster in a disaster-stricken area in which a state of emergency has been proclaimed by the Governor pursuant to Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code.

(2) Emergency projects undertaken, carried out, or approved by a public agency to maintain, repair, or restore an existing highway, as defined in Section 360 of the Vehicle Code, except for a highway designated as an official state scenic highway pursuant to Section 262 of the Streets and Highways Code, within the existing right-of-way of the highway, damaged as a result of fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide within one year of the damage. This paragraph does not exempt from this section any project undertaken, carried out, or approved by a public agency to expand or widen a highway damaged by fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide.

(d) Subdivision (c) is not a limitation of the authority of a regional board under subdivision (a) to determine that any provision of this division shall not be waived or to establish conditions of a waiver. Subdivision (c) shall not apply to the extent that it is inconsistent with any waiver or other order or prohibition issued under this division.

(e) The regional boards and the state board shall require compliance with the conditions pursuant to which waivers are granted under this section.

(f) Prior to renewing any waiver for a specific type of discharge established under this section, the state board or a regional board shall review the terms of the waiver policy at a public hearing. At the hearing, the state board or a regional board shall determine whether the discharge for which the waiver policy was established should be subject to general or individual waste discharge requirements.

SEC. 361. Section 13368 of the Water Code is amended to read:

13368. (a) The San Diego Bay Advisory Committee for Ecological Assessment is hereby established.

(b) The committee shall prepare a report on all of the following:

(1) An evaluation of existing and historic data and trends in the overall health of San Diego Bay, including, but not limited to, trends in pollutant levels and trends in the numbers and diversity of species.

(2) The identification of habitat enhancement projects in the Integrated Natural Resources Management Plan for San Diego Bay that may be necessary to provide increased population and diversity for species within San Diego Bay.

(3) An assessment of, and recommendations for, including feasibility and economic practicability of, the best available technology that is economically available and the best conventional pollution control technology related to stormwater treatment systems meeting toxicity standards.

(c) For the purposes of carrying out subdivision (b), the committee shall consider and make use of the Integrated Natural Resources Management Plan for San Diego Bay prepared by the United States Navy in conjunction with numerous stakeholders.

(d) Upon the request of the United States Navy, the committee may provide oversight and assistance in the Navy's development of alternative acute toxicity effluent limitations for discharges of stormwater runoff associated with industrial activity, as authorized by the San Diego Regional Water Quality Control Board, in approval of the National Pollutant Discharge Elimination System permits for Naval Base Point Loma, Naval Base San Diego, and Naval Base Coronado.

(e) (1) The committee shall be chaired by the Chairperson of the San Diego Unified Port District. The following entities may each appoint one representative to the committee:

(A) The San Diego City Council.

(B) The City of Chula Vista.

(C) The City of Coronado.

(D) The City of Imperial Beach.

(E) The City of National City.

(F) The Environmental Health Coalition.

(G) The San Diego Baykeeper.

(H) The San Diego Audubon Society.

(I) The San Diego Chapter of the Surfrider Foundation.

(J) The Sierra Club.

(K) The San Diego Port Tenants Association.

(L) The Industrial Environmental Association.

(M) The San Diego Convention and Visitors Bureau.

(N) Scripps Institute of Oceanography.

(O) City of San Diego Metropolitan Wastewater Joint Powers Authority.

(P) The California Coastal Commission.

(2) The San Diego County Board of Supervisors may appoint two representatives to the committee. One of the persons appointed pursuant to this paragraph shall be a recreational boatowner who resides in San Diego County.

(3) The following entities may each appoint one nonvoting member to the committee:

(A) The United States Navy.

(B) The Department of Fish and Game.

(C) The United States Fish and Wildlife Service.

(D) The National Marine Fisheries Service.

(E) The University of California and California State University at San Diego may each appoint one nonvoting member.

(4) The San Diego Regional Water Quality Control Board is encouraged to participate in the proceedings of the committee.

(f) Committee members may not be compensated for their services or be reimbursed for any expenses incurred in the performance of their duties pursuant to this chapter.

(g) (1) Staffing for the committee shall be provided by the San Diego Unified Port District at the direction of the committee. The committee may accept grant funds and contract for professional services to carry out this chapter. The San Diego Unified Port District shall administer the grants made to the committee.

(2) Not more than 3 percent of the total amount of money received by the committee may be used to pay costs incurred in connection with the administration of the grants.

(h) The report required by subdivision (b) shall be submitted, on or before December 31, 2005, to all of the following:

(1) The Chairpersons of the Assembly Committee on Water, Parks and Wildlife, the Assembly Committee on Environmental Safety and Toxic Materials, the Senate Committee on Environmental Quality, and the Senate Committee on Agriculture and Water Resources.

(2) The San Diego Regional Water Quality Control Board.

(3) The state board.

(4) The California Coastal Commission.

SEC. 362. Section 13387 of the Water Code is amended to read:

13387. (a) Any person who knowingly or negligently does any of the following is subject to criminal penalties as provided in subdivisions (b), (c), and (d):

(1) Violates Section 13375 or 13376.

(2) Violates any waste discharge requirements or dredged or fill material permit issued pursuant to this chapter or any water quality certification issued pursuant to Section 13160.

(3) Violates any order or prohibition issued pursuant to Section 13243 or 13301, if the activity subject to the order or prohibition is subject to regulation under this chapter.

(4) Violates any requirement of Section 301, 302, 306, 307, 308, 318, 401, or 405 of the Clean Water Act (33 U.S.C. Sec. 1311, 1312, 1316, 1317, 1318, 1328, 1341, or 1345), as amended.

(5) Introduces into a sewer system or into a publicly owned treatment works any pollutant or hazardous substances that the person knew or reasonably should have known could cause personal injury or property damage.

(6) Introduces any pollutant or hazardous substance into a sewer system or into a publicly owned treatment works, except in accordance with any applicable pretreatment requirements, which pollutant or hazardous substance causes the treatment works to violate waste discharge requirements.

(b) Any person who negligently commits any of the violations set forth in subdivision (a) shall, upon conviction, be punished by a fine of not less than five thousand dollars (\$5,000), nor more than twenty-five thousand dollars (\$25,000), for each day in which the violation occurs, or by imprisonment for not more than one year in a county jail, or both. If a conviction of a person is for a violation committed after a first conviction of the person under this subdivision, subdivision (c), or subdivision (d), punishment shall be by a fine of not more than fifty thousand dollars (\$50,000) for each day in which the violation occurs, or by imprisonment of not more than two years, or by both.

(c) Any person who knowingly commits any of the violations set forth in subdivision (a) shall, upon conviction, be punished by a fine of not less than five thousand dollars (\$5,000), nor more than fifty thousand dollars (\$50,000), for each day in which the violation occurs, or by imprisonment in the state prison for not more than three years, or by both. If a conviction of a person is for a violation committed after a first conviction of the person under this subdivision or subdivision (d), punishment shall be by a fine of not more than one hundred thousand dollars (\$100,000) for each day in which the violation occurs, or by imprisonment in the state prison of not more than six years, or by both.

(d) (1) Any person who knowingly commits any of the violations set forth in subdivision (a), and who knows at the time that the person thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be subject to a fine of not more than two hundred fifty thousand dollars (\$250,000) or imprisonment in the state prison of not more than 15 years, or both. A person that is an organization shall, upon conviction under this subdivision, be subject to a fine of not more than one million dollars (\$1,000,000). If a conviction of a person is for a violation committed after a first conviction of the

person under this subdivision, the maximum punishment shall be a fine of not more than five hundred thousand dollars (\$500,000) or imprisonment in the state prison of not more than 30 years, or both. A person that is an organization shall, upon conviction for a violation committed after a first conviction of the person under this subdivision, be subject to a fine of not more than two million dollars (\$2,000,000). Any fines imposed pursuant to this subdivision shall be in addition to any fines imposed pursuant to subdivision (c).

(2) In determining whether a defendant who is an individual knew that the defendant's conduct placed another person in imminent danger of death or serious bodily injury, the defendant is responsible only for actual awareness or actual belief that the defendant possessed, and knowledge possessed by a person other than the defendant, but not by the defendant personally, cannot be attributed to the defendant.

(e) Any person who knowingly makes any false statement, representation, or certification in any record, report, plan, notice to comply, or other document filed with a regional board or the state board, or who knowingly falsifies, tampers with, or renders inaccurate any monitoring device or method required under this division shall be punished by a fine of not more than twenty-five thousand dollars (\$25,000), or by imprisonment in the state prison for not more than two years, or by both. If a conviction of a person is for a violation committed after a first conviction of the person under this subdivision, punishment shall be by a fine of not more than twenty-five thousand dollars (\$25,000) per day of violation, or by imprisonment in the state prison of not more than four years, or by both.

(f) For purposes of this section, a single operational upset which leads to simultaneous violations of more than one pollutant parameter shall be treated as a single violation.

(g) For purposes of this section, "organization," "serious bodily injury," "person," and "hazardous substance" shall have the same meaning as in Section 309(c) of the Clean Water Act (33 U.S.C. Sec. 1319(c)), as amended.

(h) (1) Subject to paragraph (2), funds collected pursuant to this section shall be deposited in the State Water Pollution Cleanup and Abatement Account.

(2) (A) Notwithstanding any other provision of law, fines collected for a violation of a water quality certification in accordance with paragraph (2) of subdivision (a) or for a violation of Section 401 of the Clean Water Act (33 U.S.C. Sec. 1341) in accordance with paragraph (4) of subdivision (a) shall be deposited in the Water Discharge Permit Fund and separately accounted for in that fund.

(B) The funds described in subparagraph (A) shall be expended by the state board, upon appropriation by the Legislature, to assist regional

boards, and other public agencies with authority to clean up waste or abate the effects of the waste, in cleaning up or abating the effects of the waste on waters of the state, or for the purposes authorized in Section 13443.

SEC. 363. Section 13610 of the Water Code is amended to read:

13610. Unless the context otherwise requires, the definitions set forth in this section govern the construction of this chapter:

(a) "Perchlorate" means all perchlorate-containing compounds, including ammonium, potassium, magnesium, and sodium perchlorate not found on or after January 1, 2004, in unused military munitions as defined in Section 260.10 of Title 40 of the Code of Federal Regulations.

(b) Subject to Section 13610.5, "perchlorate storage facility" means a facility, not including a military munitions storage facility within a military installation that meets the Department of Defense Explosive Safety Board requirements set forth in DOD 6055.9-STD, that stores over 500 pounds of perchlorate in any calendar year.

(c) For the purposes of this section, "military munitions storage facility" does not include the entire military installation within which the military munitions storage facility is located.

SEC. 364. Section 13611 of the Water Code is amended to read:

13611. (a) The notification required by Section 13611.5 does not apply to a discharge that is in compliance with this division, or to a water agency conveying water in compliance with all state and federal drinking water standards.

(b) Any person who fails to provide the notifications required by Section 13271 relating to perchlorate or by Section 13611.5 may be civilly liable in accordance with subdivision (c).

(c) (1) Civil liability may be administratively imposed by a regional board in accordance with Article 2.5 (commencing with Section 13323) of Chapter 5 for a violation described in subdivision (b) in an amount that does not exceed one thousand dollars (\$1,000) for each day in which the violation occurs.

(2) Civil liability may be imposed by the superior court in accordance with Article 5 (commencing with Section 11350) and Article 6 (commencing with Section 13360) of Chapter 5 for a violation described in subdivision (b) in an amount that is not less than five hundred dollars (\$500), or more than five thousand dollars (\$5,000), for each day in which the violation occurs.

(d) Notwithstanding Section 13441, all money collected by the state pursuant to this section shall be available to the state board upon appropriation by the Legislature.

SEC. 365. Section 13611.5 of the Water Code is amended to read:

13611.5. (a) On or before January 1, 2005, and annually thereafter, unless the owner or operator has met the alternative compliance

requirements of subdivision (b), an owner or operator of a storage facility that has stored in any calendar year since January 1, 1950, over 500 pounds of perchlorate shall submit to the state board, to the extent feasible, all of the following information:

- (1) The volume of perchlorate stored each year.
- (2) The method of storage.

(3) The location of storage. To the extent authorized by federal law, in the case of a perchlorate storage facility under the control of the Armed Forces of the United States, "location" means the name and address of the property within which the perchlorate storage facility is located.

(4) Copies of documents relating to any monitoring undertaken for potential leaks into the water bodies of the state.

(b) The owner or operator of a storage facility that has stored in any calendar year since January 1, 1950, over 500 pounds of perchlorate, is in compliance with this section if both of the following conditions are met:

(1) The owner or operator has provided substantially similar information as required pursuant to subdivision (a) to a state, local, or federal agency pursuant to any of the following:

(A) An order issued by a regional board pursuant to Chapter 5 (commencing with Section 13300) of Division 7.

(B) An order, consent order, or consent decree issued or entered into by the Department of Toxic Substances Control pursuant to Chapter 6.8 (commencing with Section 25300) of Division 20 of the Health and Safety Code.

(C) An order, consent order, or consent decree issued or entered into by the United States Environmental Protection Agency pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sec. 9601 et seq.).

(D) The requirement under Section 25504.1 of the Health and Safety Code, as added by Assembly Bill 826 of the 2003–04 Regular Session.

(2) The owner or operator, on or before January 1, 2005, and annually thereafter, notifies the state board of the governmental entity to which the information is provided and the state board determines the information supplied is substantially similar as the information required to be reported pursuant to subdivision (a). In the case of any information submitted to a federal or local agency, the state board may require the owner or operator, in addition, to submit that information to the state board if the state board determines that the information is not otherwise reasonably available to the state board.

(c) This section shall not be administered or implemented if the state board receives notification from the Secretary for Environmental Protection pursuant to Section 13613 that the Secretary for

Environmental Protection has established a database that is able to receive perchlorate inventory information.

(d) Information on perchlorate storage need only be submitted pursuant to this section one time, unless information originally submitted pursuant to this section has changed.

SEC. 366. Section 36153 of the Water Code is amended to read:

36153. In addition to any and all other provisions of this division and any other applicable laws for the issuance of general obligation bonds by a district, general obligation bonds may be issued by a district if the proceeds are to be used to construct facilities in compliance with an order adopted by the State Department of Health Services pursuant to Chapter 4 (commencing with Section 116275) of Part 12 of Division 104 of the Health and Safety Code. Bonds issued pursuant to this section shall be issued by a district as otherwise provided in this division without regard to the election procedures of Chapter 3 (commencing with Section 35150) of Part 4 and shall be secured by unlimited ad valorem assessments on land in the district without regard to any limitations set forth in Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of the Revenue and Taxation Code. If 50 percent or more of the voters within the district or if the owners of 50 percent or more of the assessed valuation within the district submit written protests to the district secretary within the 30 days after the date the board adopts the resolution authorizing the issuance of the bonds, the proceedings for the issuance of bonds pursuant to this section shall be terminated and no further proceedings shall be taken pursuant to this section for a period of at least one year.

SEC. 367. Section 72303 of the Water Code is amended to read:

72303. Any district, the territory, or any portion thereof, of which is included within a metropolitan water district, shall be entitled, without penalty or sanction from the metropolitan water district, to purchase or acquire water to serve any territory within the district, whether or not the territory is within the metropolitan water district, from the following specified sources without the water being deemed an acquisition or purchase of water from the State Water Resources development system:

(a) Recycled water, as defined in Section 13050, regardless of the source of the water prior to its use and recycling.

(b) Water produced incidentally to the exercise of bona fide property rights to divert or pump local waters, regardless of the origin of the waters.

SEC. 368. Section 78688 of the Water Code is amended to read:

78688. Nothing in this division diminishes, or otherwise affects, the requirements of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) or the

National Environmental Policy Act of 1969 (42 U.S.C. Sec. 4321 et seq.).

SEC. 369. Section 79532 of the Water Code is amended to read:

79532. (a) Funds made available pursuant to subdivision (b) of Section 79530 shall be administered in accordance with this section.

(b) (1) Grant funds appropriated for the purposes of subdivision (b) of Section 79530 shall be awarded on a competitive basis.

(2) The department shall consolidate the application process required to implement the grant program described in this section.

(c) For the purposes of this chapter, “southern California water agencies” means water agencies with service areas entirely or partly in one or more of the following counties: San Diego, Imperial, Riverside, Orange, Los Angeles, San Bernardino, Santa Barbara, or Ventura.

(d) Grants may be awarded to southern California water agencies for eligible projects undertaken by one or more southern California water agencies and other entities.

(e) A project funded by a grant made pursuant to subdivision (b) of Section 79530 shall meet both of the following requirements:

(1) The project will assist the grantee to meet safe drinking water standards.

(2) The project will assist in meeting the state’s commitment to reduce Colorado River water use to 4.4 million acre-feet per year.

(f) In the development of criteria for the grants awarded pursuant to this section, the State Department of Health Services shall consult with the Office of Environmental Health Hazard Assessment for the purposes of developing a program that gives priority to projects that reduce public and environmental exposure to contaminants that pose the most significant health risks, and that will bring water systems into compliance with safe drinking water standards. These include, but are not limited to, projects that address public exposure to contaminants for which safe drinking water standards have been established, including arsenic, disinfection byproducts and uranium. Projects to address emerging contaminants, including perchlorate, chromium 6, and endocrine disrupters shall also be given priority.

SEC. 370. Section 79561.5 of the Water Code is amended to read:

79561.5. (a) Notwithstanding any other provision of law, of the funds appropriated to the department for the purposes of Sections 79560 and 79560.1, the department shall allocate the sum of not less than twenty million dollars (\$20,000,000) to competitive grants for groundwater management and recharge projects. The department shall not allocate funds pursuant to this section unless it determines that the allocation is consistent with this division, as approved by the voters at the November 5, 2002, statewide general election.

(b) It is the intent of the Legislature that these funds be used to enhance water supply in rapidly growing areas of this state with limited access to imported water supplies.

(c) Not more than 50 percent of the grants pursuant to this section shall be for projects in northern California. For projects in southern California, the department shall give preference to projects outside the service area of the Metropolitan Water District of Southern California that are infill projects within one mile of established residential and commercial development.

(d) As used in this section, the term "rapidly growing areas" means counties located in southern California where the county population increased by 2.4 percent or more between January 1, 2002, and January 1, 2003.

SEC. 371. Section 779 of the Welfare and Institutions Code is amended to read:

779. The court committing a ward to the Youth Authority may thereafter change, modify, or set aside the order of commitment. Ten days' notice of the hearing of the application therefor shall be served by United States mail upon the Director of the Youth Authority. In changing, modifying, or setting aside the order of commitment, the court shall give due consideration to the effect thereof upon the discipline and parole system of the Youth Authority or of the correctional school in which the ward may have been placed by the Youth Authority. Except as provided in this section, nothing in this chapter shall be deemed to interfere with the system of parole and discharge now or hereafter established by law, or by rule of the Youth Authority, for the parole and discharge of wards of the juvenile court committed to the Youth Authority, or with the management of any school, institution, or facility under the jurisdiction of the Youth Authority. Except as provided in this section, this chapter does not interfere with the system of transfer between institutions and facilities under the jurisdiction of the Youth Authority. This section does not limit the authority of the court to change, modify, or set aside an order of commitment after a noticed hearing and upon a showing of good cause that the Youth Authority is unable to, or failing to, provide treatment consistent with Section 734.

However, before any inmate of a correctional school may be transferred to a state hospital, he or she shall first be returned to a court of competent jurisdiction and, after hearing, may be committed to a state hospital for the insane in accordance with law.

SEC. 372. Section 1000.7 of the Welfare and Institutions Code is amended to read:

1000.7. As used in this chapter, "Youth Authority," "authority," and "the authority" mean and refer to the Department of the Youth Authority, and "board" means and refers to the Youth Authority Board.

SEC. 373. Section 1703 of the Welfare and Institutions Code is amended to read:

1703. As used in this chapter the following terms have the following meanings:

(a) "Public offenses" means public offenses as that term is defined in the Penal Code.

(b) "Court" includes any official authorized to impose sentence for a public offense.

(c) "Youth Authority," "Authority," "authority," or "department" means the Department of the Youth Authority.

(d) "Board" or "board" means the Youth Authority Board.

(e) The masculine pronoun includes the feminine.

SEC. 374. Section 5657 of the Welfare and Institutions Code is amended to read:

5657. (a) The private organization or private nonprofit organization awarded a contract with the county agency to supply mental health services under this part shall provide an invoice to the county for the amount of the payment due within 60 days of the date the services are supplied, as long as that date is at least 60 days from the date the county has received distribution of mental health funds from the state.

(b) Any county that, without reasonable cause, fails to make any payment within 60 days of the required payment date to a private organization or private nonprofit organization awarded a contract with the county agency to supply mental health services under this part, for an undisputed claim which was properly executed by the claimant and submitted to the county, shall pay a penalty of 0.10 percent of the amount due, per day, from the 61st day after the required payment date.

(c) For the purposes of this section, "required payment date" means any of the following:

(1) The date on which payment is due under the terms of the contract.

(2) If a specific date is not established by contract, the date upon which an invoice is received, if the invoice specifies payment is due upon receipt.

(3) If a specific date is not established by contract or invoice, 60 days after receipt of a proper invoice for the amount of the payment due.

(d) The penalty assessed under this section shall not be paid from the Bronzan-McCorquodale program funds or county matching funds. The penalty provisions of this section shall not apply to the late payment of any federal funds or Medi-Cal funds.

SEC. 375. Section 7200.06 of the Welfare and Institutions Code is amended to read:

7200.06. (a) Of the 1,362 licensed beds at Napa State Hospital, at least 20 percent of these beds shall be available in any given fiscal year for use by counties for contracted services. Of the remaining beds, in no

case shall the population of patients whose placement has been required pursuant to the Penal Code exceed 980.

(b) After construction of the perimeter security fence is completed at Napa State Hospital, no patient whose placement has been required pursuant to the Penal Code shall be placed outside the perimeter security fences, with the exception of placements in the General Acute Care and Skilled Nursing Units. The State Department of Mental Health shall ensure that appropriate security measures are in place for the general acute care and skilled nursing units.

(c) Any alteration to the security perimeter structure or policies shall be made in conjunction with representatives of the City of Napa, the County of Napa, and local law enforcement agencies.

SEC. 376. Section 10063 of the Welfare and Institutions Code is amended to read:

10063. (a) Notwithstanding any other provision of law, the name of the program provided for pursuant to Chapter 2 (commencing with Section 11200) is hereby changed to the California Work Opportunity and Responsibility to Kids program, referred to as CalWORKs.

(b) Any reference to the Aid to Families with Dependent Children Program, Family Group and Unemployment program, and the Greater Avenues for Independence program shall be deemed to refer to the CalWORKs program.

SEC. 377. Section 11025 of the Welfare and Institutions Code is amended to read:

11025. (a) The State Department of Social Services and the State Department of Health Services shall utilize the records of the Franchise Tax Board to match unearned income against reported income of applicants for and recipients of aid or public social services under this division. The matching information shall then be forwarded to the appropriate county welfare department for use in determining the eligibility of, and proper grant amount for, applicants for, and recipients of, aid or public social services under this division. Any and all documents and records that result from the matching of records with the Franchise Tax Board shall be subject to the confidentiality requirements of Section 10850.

(b) This section shall not be construed to supersede the requirements and protections in the California Right to Financial Privacy Act under Chapter 20 (commencing with Section 7460) of Division 7 of Title 1 of the Government Code in obtaining information in possession of any financial institution.

(c) This section shall be implemented only to the extent it is funded in the annual Budget Act.

SEC. 378. Section 11052.5 of the Welfare and Institutions Code is amended to read:

11052.5. No applicant shall be granted public assistance under Chapters 2 (commencing with Section 11200) and 5 (commencing with Section 13000) of this part until he or she is first personally interviewed by the office of the county department or state staff for patients in state hospitals. The personal interview shall be conducted promptly following the application for assistance. If an applicant is incapable of acting in his or her own behalf, the county department shall verify this fact by personal contact with the applicant before aid is authorized. As used in this section, the term public assistance does not include health care as provided by Chapter 7 (commencing with Section 14000).

The interview conducted pursuant to this section shall occur within seven days after the time of application unless there are extenuating circumstances that justify further delay.

SEC. 379. Section 11373 of the Welfare and Institutions Code is amended to read:

11373. Two years after the implementation date of this article, and again five years after the implementation date of this article, the department shall report to the Legislature information on the outcomes of the Kin-GAP Program, with the report to include all of the following:

(a) The number and characteristics of the children who exited the child welfare system to the Kin-GAP Program.

(b) The numbers and types of disruptions to the Kin-GAP Program, including subsequent substantiated child abuse reports, child welfare services, and cases where children return to foster care.

(c) Rates of Kin-GAP exits from foster care compared to relative adoption and return to parents.

SEC. 380. Section 11468.6 of the Welfare and Institutions Code is amended to read:

11468.6. (a) The director shall establish administrative procedures to review group home audit findings.

(b) A group home provider, including an RCL 13 or an RCL 14 provider, may request a hearing to examine any disputed audit finding that results in an overpayment or adjustment to the provider's rate, or that reduces the provider's overall RCL point total pursuant to Section 11462. The administrative review process established in this section shall not examine issues regarding the authority of the department to set rates, determine RCL points, conduct audits, or collect overpayments from a group home provider.

(c) The administrative appeal process established pursuant to this section shall commence with an informal hearing, and provide for a formal administrative hearing of the informal level appeal record and decision by a hearing officer appointed by the director. The department shall make every effort to contract with the State Department of Health

Services to conduct the informal hearings required by this subdivision during the first year of implementation of this section.

(d) An amended audit report may be issued by the department for the fiscal period or periods for which the proceedings are pending under this section, if at the time of the hearing, the group home provider submits additional documentation or evidence that was not available to the department at the time of the audit. The proceedings shall be suspended for a period not exceeding 120 days while the department completes an amended audit and the provider identifies any additional disputes that result from an amended audit report. Additional audit findings included in an amended audit report may also be included in the proceedings at the request of the provider.

(e) Within 120 days after submission of a proposed decision, the director shall do one of the following:

(1) Adopt the proposed decision with or without reading or hearing the record.

(2) Reject the proposed decision and adopt an alternative decision based upon the documentary and electronically recorded record, with or without taking additional evidence.

(3) Refer the matter to the same or a different hearing officer to take additional evidence. If the case is so assigned, the hearing officer shall, within 90 days, prepare a proposed decision, based upon the additional evidence and the documentary and electronically recorded record of the prior hearing. The director may then take one of the actions described in this subdivision in regard to the new proposed decision. The director may return a proposed decision twice on the same appeal.

(f) (1) The director's decision shall be final when the decision is mailed to the parties. However, the director retains jurisdiction to correct clerical errors.

(2) Copies of the final decision of the director and the hearing officer's proposed decision, if it was not adopted by the director, shall be mailed by certified mail to the parties.

(g) The group home provider may request review of the final decision of the director pursuant to this section in accordance with Section 1094.5 of the Code of Civil Procedure within six months of the issuance of the director's final decision.

SEC. 381. Section 14016.5 of the Welfare and Institutions Code is amended to read:

14016.5. (a) At the time of determining or redetermining the eligibility of a Medi-Cal or aid to families with dependent children (AFDC) applicant or beneficiary who resides in an area served by a managed health care plan or pilot program in which beneficiaries may enroll, each applicant or beneficiary shall personally attend a presentation at which the applicant or beneficiary is informed of the

managed care and fee-for-service options available regarding methods of receiving Medi-Cal benefits. The county shall ensure that each beneficiary or applicant attends this presentation.

(b) The health care options presentation described in subdivision (a) shall include all of the following elements:

(1) Each beneficiary or eligible applicant shall be informed that he or she may choose to continue an established patient-provider relationship in the fee-for-service sector.

(2) Each beneficiary or eligible applicant shall be provided with the name, address, telephone number, and specialty, if any, of each primary care provider, and each clinic participating in each prepaid managed health care plan, pilot project, or fee-for-service case management provider option. This information shall be provided under geographic area designations, in alphabetical order by the name of the primary care provider and clinic. The name, address, and telephone number of each specialist participating in each prepaid managed care health plan, pilot project, or fee-for-service case management provider option shall be made available by either contacting the health care options contractor or the prepaid managed care health plan, pilot project, or fee-for-service case management provider.

(3) Each beneficiary or eligible applicant shall be informed that he or she may choose to continue an established patient-provider relationship in a managed care option, if his or her treating provider is a primary care provider or clinic contracting with any of the prepaid managed health care plans, pilot projects, or fee-for-service case management provider options available, has available capacity, and agrees to continue to treat that beneficiary or applicant.

(4) In areas specified by the director, each beneficiary or eligible applicant shall be informed that if he or she fails to make a choice, or does not certify that he or she has an established relationship with a primary care provider or clinic, he or she shall be assigned to, and enrolled in, a prepaid managed health care plan, pilot projects, or fee-for-service case management provider.

(c) No later than 30 days following the date a Medi-Cal or AFDC beneficiary or applicant is determined eligible, the beneficiary or applicant shall indicate his or her choice in writing, as a condition of coverage for Medi-Cal benefits, of either of the following health care options:

(1) To obtain benefits by receiving a Medi-Cal card, which may be used to obtain services from individual providers, that the beneficiary would locate, who choose to provide services to Medi-Cal beneficiaries.

The department may require each beneficiary or eligible applicant, as a condition for electing this option, to sign a statement certifying that he or she has an established patient-provider relationship, or in the case of

a dependent, the parent or guardian shall make that certification. This certification shall not require the acknowledgment or guarantee of acceptance, by any indicated Medi-Cal provider or health facility, of any beneficiary making a certification under this section.

(2) (A) To obtain benefits by enrolling in a prepaid managed health care plan, pilot program, or fee-for-service case management provider that has agreed to make Medi-Cal services readily available to enrolled Medi-Cal beneficiaries.

(B) At the time the beneficiary or eligible applicant selects a prepaid managed health care plan, pilot project, or fee-for-service case management provider, the department shall, when applicable, encourage the beneficiary or eligible applicant to also indicate, in writing, his or her choice of primary care provider or clinic contracting with the selected prepaid managed health care plan, pilot project, or fee-for-service case management provider.

(d) (1) In areas specified by the director, a Medi-Cal or AFDC beneficiary or eligible applicant who does not make a choice, or who does not certify that he or she has an established relationship with a primary care provider or clinic, shall be assigned to and enrolled in an appropriate Medi-Cal managed care plan, pilot project, or fee-for-service case management provider providing service within the area in which the beneficiary resides.

(2) If it is not possible to enroll the beneficiary under a Medi-Cal managed care plan or pilot project or a fee-for-service case management provider because of a lack of capacity or availability of participating contractors, the beneficiary shall be provided with a Medi-Cal card and informed about fee-for-service primary care providers who do all of the following:

(A) The providers agree to accept Medi-Cal patients.

(B) The providers provide information about the provider's willingness to accept Medi-Cal patients as described in Section 14016.6.

(C) The providers provide services within the area in which the beneficiary resides.

(e) If a beneficiary or eligible applicant does not choose a primary care provider or clinic or does not select any primary care provider who is available, the managed health care plan, pilot project, or fee-for-service case management provider that was selected by or assigned to the beneficiary shall ensure that the beneficiary selects a primary care provider or clinic within 30 days after enrollment or is assigned to a primary care provider within 40 days after enrollment.

(f) (1) The managed care plan shall have a valid Medi-Cal contract, adequate capacity, and appropriate staffing to provide health care services to the beneficiary.

(2) The department shall establish standards for all of the following:

(A) The maximum distances a beneficiary is required to travel to obtain primary care services from the managed care plan, fee-for-service managed care provider, or pilot project in which the beneficiary is enrolled.

(B) The conditions under which a primary care service site shall be accessible by public transportation.

(C) The conditions under which a managed care plan, fee-for-service managed care provider, or pilot project shall provide nonmedical transportation to a primary care service site.

(3) In developing the standards required by paragraph (2), the department shall take into account, on a geographic basis, the means of transportation used and distances typically traveled by Medi-Cal beneficiaries to obtain fee-for-service primary care services and the experience of managed care plans in delivering services to Medi-Cal enrollees. The department shall also consider the provider's ability to render culturally and linguistically appropriate services.

(g) To the extent possible, the arrangements for carrying out subdivision (d) shall provide for the equitable distribution of Medi-Cal beneficiaries among participating managed care plans, fee-for-service case management providers, and pilot projects.

(h) If, under the provisions of subdivision (d), a Medi-Cal beneficiary or applicant does not make a choice or does not certify that he or she has an established relationship with a primary care provider or clinic, the person may, at the option of the department, be provided with a Medi-Cal card or be assigned to and enrolled in a managed care plan providing service within the area in which the beneficiary resides.

(i) Any Medi-Cal or AFDC beneficiary who is dissatisfied with the provider or managed care plan, pilot project, or fee-for-service case management provider shall be allowed to select or be assigned to another provider or managed care plan, pilot project, or fee-for-service case management provider.

(j) The department or its contractor shall notify a managed care plan, pilot project, or fee-for-service case management provider when it has been selected by or assigned to a beneficiary. The managed care plan, pilot project, or fee-for-service case management provider that has been selected by, or assigned to, a beneficiary, shall notify the primary care provider or clinic that it has been selected or assigned. The managed care plan, pilot project, or fee-for-service case management provider shall also notify the beneficiary of the managed care plan, pilot project, or fee-for-service case management provider or clinic selected or assigned.

(k) (1) The department shall ensure that Medi-Cal beneficiaries eligible under Title XVI of the Social Security Act are provided with information about options available regarding methods of receiving Medi-Cal benefits as described in subdivision (c).

(2) (A) The director may waive the requirements of subdivisions (c) and (d) until a means is established to directly provide the presentation described in subdivision (a) to beneficiaries who are eligible for the federal Supplemental Security Income for the Aged, Blind, and Disabled Program (Subchapter 16 (commencing with Section 1381) of Chapter 7 of Title 42 of the United States Code).

(B) The director may elect not to apply the requirements of subdivisions (c) and (d) to beneficiaries whose eligibility under the Supplemental Security Income program is established before January 1, 1994.

(l) In areas where there is no prepaid managed health care plan or pilot program that has contracted with the department to provide services to Medi-Cal beneficiaries, and where no other enrollment requirements have been established by the department, no explicit choice need be made, and the beneficiary or eligible applicant shall receive a Medi-Cal card.

(m) The following definitions contained in this subdivision shall control the construction of this section, unless the context requires otherwise:

(1) "Applicant," "beneficiary," and "eligible applicant," in the case of a family group, mean any person with legal authority to make a choice on behalf of dependent family members.

(2) "Fee-for-service case management provider" means a provider enrolled and certified to participate in the Medi-Cal fee-for-service case management program the department may elect to develop in selected areas of the state with the assistance of and in cooperation with California physician providers and other interested provider groups.

(3) "Managed health care plan" and "managed care plan" mean a person or entity operating under a Medi-Cal contract with the department under this chapter or Chapter 8 (commencing with Section 14200) to provide, or arrange for, health care services for Medi-Cal beneficiaries as an alternative to the Medi-Cal fee-for-service program that has a contractual responsibility to manage health care provided to Medi-Cal beneficiaries covered by the contract.

(n) (1) Whenever a county welfare department notifies a public assistance recipient or Medi-Cal beneficiary that the recipient or beneficiary is losing Medi-Cal eligibility, the county shall include, in the notice to the recipient or beneficiary, notification that the loss of eligibility shall also result in the recipient's or beneficiary's disenrollment from Medi-Cal managed care health or dental plans, if enrolled.

(2) (A) Whenever the department or the county welfare department processes a change in a public assistance recipient's or Medi-Cal beneficiary's residence or aid code that will result in the recipient's or

beneficiary's disenrollment from the managed care health or dental plan in which he or she is currently enrolled, a written notice shall be given to the recipient or beneficiary.

(B) This paragraph shall become operative and the department shall commence sending the notices required under this paragraph on or before the expiration of 12 months after the effective date of this section.

(o) This section shall be implemented in a manner consistent with any federal waiver required to be obtained by the department in order to implement this section.

SEC. 382. Section 14043.75 of the Welfare and Institutions Code is amended to read:

14043.75. (a) The director may, in consultation with interested parties, by regulation, adopt, readopt, repeal, or amend additional measures to prevent or curtail fraud and abuse. Regulations adopted, readopted, repealed, or amended pursuant to this section shall be deemed emergency regulations in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). These emergency regulations shall be deemed necessary for the immediate preservation of the public peace, health and safety, or general welfare. Emergency regulations adopted, amended, or repealed pursuant to this section shall be exempt from review by the Office of Administrative Law. The emergency regulations authorized by this section shall be submitted to the Office of Administrative Law for filing with the Secretary of State and publication in the California Code of Regulations.

(b) Notwithstanding any other provision of law, the director may, without taking regulatory action pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, implement, interpret, or make specific Sections 14043.15, 14043.26, 14043.27, 14043.28, 14043.29, and 14043.341 by means of a provider bulletin or similar instruction. The department shall notify and consult with interested parties and appropriate stakeholders in implementing, interpreting, or making specific those provisions described in this subdivision, including all of the following:

(1) Notifying provider representatives of the proposed action or change. The notice shall occur at least 10 business days prior to the meeting provided for in paragraph (2).

(2) Scheduling at least one meeting with interested parties and appropriate stakeholders to discuss the action or change.

(3) Allowing for written input regarding the action or change.

(4) Providing at least 30 days' advance notice of the effective date of the action or change.

SEC. 383. Section 14087.6 of the Welfare and Institutions Code is amended to read:

14087.6. A county that has contracted for the provision of services pursuant to this article may provide the services directly to recipients, or arrange for any or all of the services to be provided by subcontracting with primary care providers, health maintenance organizations, insurance carriers, or other entities or individuals. The subcontracts may utilize a prospectively negotiated reimbursement rate, fee-for-service, retainer, capitation, or other basis for payment. The rate of payment established under the contract shall not exceed the total per capita amount that the department estimates would be payable for all services and requirements covered under the contract if all these services and requirements were to be furnished Medi-Cal beneficiaries under the Medi-Cal fee-for-service program.

Counties that are responsible for providing health care under this chapter shall make efforts to utilize existing health service resources if these resources can be estimated by the county to result in lower total long-term costs and accessible quality care to persons served under this chapter. The granting of a certificate of need pursuant to the criteria set forth in Section 127200 of the Health and Safety Code or a certificate of exemption pursuant to the criteria set forth in Section 127175 of the Health and Safety Code shall satisfy the intent of this provision.

SEC. 384. Section 14105.981 of the Welfare and Institutions Code is amended to read:

14105.981. (a) Prior to the implementation of the Health Insurance Act of 2003, annually for five years after its implementation, and every five years thereafter, the department shall report to the Legislature and the Managed Risk Medical Insurance Board regarding utilization patterns for Medi-Cal pursuant to this chapter at county-owned hospitals and clinics, community clinics, and vital institutional safety net providers eligible for Medi-Cal payments under Section 14105.98, including determining the number of Medi-Cal inpatient days and outpatient visits as well as the nature and cost of care provided to Medi-Cal patients.

(b) If Medi-Cal fee-for-service utilization or Medi-Cal fee-for-service payments to county-owned hospitals and clinics, community clinics, and other vital institutional safety net providers eligible for Medi-Cal payments under Section 14105.98 have been reduced, then the department shall review statute, regulations, policies and procedures, payment arrangements or other mechanisms to determine what changes may be necessary to protect Medi-Cal funding and maximize federal financial participation to protect the financial stability of county-owned hospitals and clinics, community clinics, and other vital institutional safety net providers. The department shall consult with representatives of county-owned hospital systems, community clinics, vital institutional safety net providers eligible for

Medi-Cal payments under Section 14105.98, legal services advocates, and recognized collective bargaining agents for the specified providers.

SEC. 385. Section 14123.25 of the Welfare and Institutions Code is amended to read:

14123.25. (a) In lieu of, or in addition to, the imposition of any other sanction available to it, including the sanctions and penalties authorized under Section 14123.2 or 14171.6, and as the “single state agency” for California vested with authority to administer the Medi-Cal program, the department shall exercise the authority granted to it in Section 1002.2 of Title 42 of the Code of Federal Regulations, and may also impose the mandatory and permissive exclusions identified in Section 1128 of the federal Social Security Act (42 U.S.C. Sec. 1320a-7), and its implementing regulations, and impose civil penalties identified in Section 1128A of the federal Social Security Act (42 U.S.C. Sec. 1320a-7a), and its implementing regulations, against applicants and providers, as defined in Section 14043.1, or against billing agents, as defined in Section 14040.1. The department may also terminate, or refuse to enter into, a provider agreement authorized under Section 14043.2 with an applicant or provider, as defined in Section 14043.1, upon the grounds specified in Section 1866(b)(2) of the federal Social Security Act (42 U.S.C. Sec. 1395cc(b)(2)). Notwithstanding Section 100171 of the Health and Safety Code or any other provision of law, any appeal by an applicant, provider, or billing agent of the imposition of a civil penalty, exclusion, or other sanction pursuant to this subdivision shall be in accordance with Section 14043.65, except that where the action is based upon conviction for any crime involving fraud or abuse of the Medi-Cal, medicaid, or Medicare programs, or exclusion by the federal government from the medicaid or Medicare programs, the action shall be automatic and not subject to appeal or hearing.

(b) In addition, the department may impose the intermediate sanctions identified in Section 1846 of the Social Security Act (42 U.S.C. Sec. 1395w-2), and its implementing regulations, against any provider that is a clinical laboratory, as defined in Section 1206 of the Business and Professions Code. The imposition and appeal of this intermediate sanction shall be in accordance with Article 8 (commencing with Section 1065) of Chapter 2 of Division 1 of Title 17 of the California Code of Regulations.

(c) (1) In addition, the department may issue a written warning notice of improper billing or improper cost report computation, which shall specifically identify the statute, regulation, or rule that is being violated, to a provider via certified mail, return receipt requested, whenever a review of the provider’s paid claims or a provider’s cost report demonstrate a pattern of improper billing or improper cost report computation. The review shall not take into account claims that were

denied or payment reductions. The warning notice shall be in a format that specifically apprises the provider of the item or service improperly billed, and if applicable, the deficiencies in the manner in which provider costs were computed. The warning notice may be issued with annual cost report audit findings, or in addition to any audit or any other action that the department is authorized to take. The failure of the department to exercise its discretion to issue the warning notice shall not be interpreted and shall not limit its authority to audit or take any action authorized by law. The warning notice shall provide the provider with the opportunity to contest the warning notice and explain to the department the correctness of the provider's bill or cost report computation. If the department accepts the provider's explanation, in whole or in part, no further action related to the notice or part of the notice that the department accepts as correct shall be taken pursuant to this section.

(2) Civil money penalties may be imposed in the following circumstances:

(A) If a provider presents or causes to be presented claims for payment by the Medi-Cal program that are either of the following:

(i) Billed improperly, and are for a service or item about which the provider has received two or more warning notices of improper billing, the provider may, in addition to any other penalties that may be prescribed by law, be subject to a civil money penalty of one hundred dollars (\$100) per claim, or up to two times the amount improperly claimed for each item or service, whichever is greater.

(ii) For a service or item for which the department solicits provider costs for use in calculating Medi-Cal reimbursement or in calculating and assigning Medi-Cal reimbursement rates, the cost reports relevant to the claims are improperly calculated, and the provider has received two or more warning notices of improper cost report computation regarding substantially similar errors, the provider may, in addition to any other penalties that may be prescribed by law, be subject to a civil money penalty of one hundred dollars (\$100) per adjustment by the department to the costs submitted by the provider, or up to two times the amount improperly claimed for each item or service, whichever is greater.

(B) If a provider presents or causes to be presented claims for payment by the Medi-Cal program that are either of the following:

(i) Billed improperly, and are for a service or item about which the provider has received three or more warning notices of improper billing, or has been assessed a penalty under subparagraph (A), the provider may, in addition to any other penalties that may be prescribed by law, be subject to a civil money penalty of one thousand dollars (\$1,000) per

claim, or up to three times the amount improperly claimed for each item or service, whichever is greater.

(ii) For a service or item for which the department solicits provider costs for use in calculating Medi-Cal reimbursement or in calculating and assigning Medi-Cal reimbursement rates, and the cost reports relevant to the claims are improperly calculated, and the provider has received three or more warning notices of improper cost report computation regarding substantially similar errors, or has been assessed a penalty under subparagraph (A), the provider may, in addition to any other penalties that may be prescribed by law, be subject to a civil money penalty of one thousand dollars (\$1,000) per adjustment by the department to the costs submitted by the provider, or three times the amount claimed for each item or service, whichever is greater.

(3) Any provider subjected to civil money penalties under paragraph (2) may appeal the decision to assess penalties pursuant to Section 100171 of the Health and Safety Code.

SEC. 386. Section 14132.22 of the Welfare and Institutions Code is amended to read:

14132.22. (a) For purposes of this section, dental restorative materials are limited to composite resin, glass ionomer cement, resin ionomer cement, and amalgam, as described on the Dental Board of California's dental materials factsheet.

(b) A provider of services that includes the provision of dental restorative materials to a beneficiary under this chapter may recommend, after consultation with the beneficiary, a dental restorative material other than the covered benefit of amalgam.

(c) A provider may claim and receive the reimbursement rate for an amalgam restoration when using a different dental restorative material.

SEC. 387. Section 14133.3 of the Welfare and Institutions Code is amended to read:

14133.3. (a) The director shall require fully documented medical justification from providers that the requested services are medically necessary to prevent significant illness, to alleviate severe pain, to protect life, or to prevent significant disability, on all requests for prior authorization.

(b) For services not subject to prior authorization controls, offered by noncontract hospitals in closed health facility planning areas to beneficiaries who were experiencing life-threatening or emergency situations, but could not be stabilized sufficiently in order to facilitate being transported to contracting hospitals, the director shall additionally determine utilization controls that shall be applied to ensure that the health care services provided and the conditions treated, are medically necessary to prevent significant illness, alleviate severe pain, to protect life, or prevent significant disability. These utilization controls shall take

into account those diseases, illnesses, or injuries that require preventive health services or treatment to prevent serious deterioration of health.

(c) Nothing in this section shall preclude payment for family planning services or early and periodic screening, diagnosis, and treatment services mandated by federal law.

(d) For the purposes of this section, a “noncontract hospital” means a hospital that has not contracted with the department for the provision of inpatient services pursuant to Article 2.6 (commencing with Section 14081).

(e) This section shall not be applied to mental health services as defined under Division 5 (commencing with Section 5000) or Section 14021, or any other mental health services funded by the Medi-Cal program.

SEC. 388. Section 14148.91 of the Welfare and Institutions Code is amended to read:

14148.91. (a) No later than March 15 of each year, the department shall report to the appropriate committees of the Legislature and the Governor, on a statewide and county-by-county basis, the most recent data on all of the following:

(1) The number of live births to women receiving prenatal care in the first trimester, in the second trimester, and in the third trimester, as well as an analysis of barriers to care to the extent available.

(2) The number of maternal deaths by race and ethnic group.

(3) The number of live births by county, race, and ethnic group.

(4) The number of fetal deaths of infants over 20 weeks’ gestation by race and ethnic group.

(5) The number of infant deaths by county, race, and ethnic group from birth to 28 days postpartum.

(6) The number of infant deaths by county, race, and ethnic group from 29 days postpartum to one year.

(7) The number of live births under 2,500 grams and over 4,500 grams by race and ethnic group.

(8) The number of live births under 1,500 grams by race and ethnic group.

(9) The number of women eligible for prenatal, delivery, or postpartum care under Subchapter 19 (commencing with Section 1396) of Chapter 7 of Title 42 of the United States Code in the past year.

(10) The source of payment for prenatal care and delivery.

(b) No later than March 15 of each year, the department shall report to the appropriate committees of the Legislature and the Governor on a statewide basis, to the extent data are available, all of the following:

(1) The number of infants eligible for services under Subchapter 19 (commencing with Section 1396) of Chapter 7 of Title 42 of the United States Code.

(2) The number of newborn babies screened or diagnosed with Fetal Alcohol Syndrome.

(3) The number of babies born with drug dependencies, HIV infection, and sexually transmitted diseases.

(4) Whether the mother smoked, consumed alcoholic beverages, or used controlled substances without a prescription, during pregnancy.

(c) (1) The department, in consultation with the Legislative Analyst, shall contract, using appropriate state administrative funds, with an appropriate entity for a one-time, statistical survey of the income of mothers, utilizing a statistically valid sample linked to the birth certificate.

(2) The State Department of Health Services shall not use more than one hundred thousand dollars (\$100,000) of administrative funds for the survey required by paragraph (1).

(3) The income information required by paragraph (1) shall be categorized according to the following income categories:

(A) Persons whose family income does not exceed 150 percent of the official federal poverty line.

(B) Persons whose family income exceeds 150 percent of the official federal poverty line but does not exceed 185 percent of the official federal poverty line.

(C) Persons whose family income exceeds 185 percent of the official federal poverty line but does not exceed 200 percent of the official federal poverty line.

(D) Persons whose family income exceeds 200 percent of the official federal poverty line but does not exceed 225 percent of the official federal poverty line.

(E) Persons whose family income exceeds 225 percent of the official federal poverty line.

(F) Persons whose family income exceeds 250 percent of the official federal poverty line level but does not exceed 300 percent of the official federal poverty line.

(d) The department shall, in addition to the information required by subdivision (a), report on trends in private insurance coverage of maternity care, to the extent the data is available.

SEC. 389. Section 14408 of the Welfare and Institutions Code is amended to read:

14408. (a) Except as otherwise prohibited by law, a contractor that has entered into a contract with the department pursuant to this chapter may make the benefits known to potential enrollees by methods approved by the department.

(b) No prepaid health plan, marketing representative, or marketing organization shall engage in marketing activities prior to written submittal to and approval by the department. All marketing activities,

procedures, methods, and places in which any activities will be conducted shall be explicitly described in a marketing plan and approved by the department prior to being used by a prepaid health plan, marketing representative, or marketing organization. The marketing plan shall be updated and submitted for renewed approval on an annual basis. The department may approve, disapprove, or withdraw approval of any marketing activity or procedure. The department shall require the discontinuance of any marketing activity or procedure for which the department withdraws approval. The conduct of activities or procedures not included in an approved marketing plan shall constitute a violation of this article and be subject to sanctions in accordance with Section 14409.

The prepaid health plan shall be responsible for all presentations by its marketing representatives and for their ethical and professional conduct. The department may withdraw certification for participation in the program from, and impose marketing sanctions specified in Section 14409, as applicable, on marketing representatives.

(c) The marketing plan shall meet the standards established by the department. The marketing plan shall include, but not be limited to, an explicit description of the specific marketing activities, the method of identifying individual enrollments by marketing representative, and formal measures to monitor performance of marketing representatives and verify both of the following:

(1) The prepaid health plan's marketing activities and practices do not violate subdivision (a) of Section 14409.

(2) Beneficiaries receive complete and accurate information about the benefits and limitations of receiving health care services through the prepaid plan in a manner that considers the beneficiary's level of comprehension.

(d) Each time a marketing representative presents information about the benefits of prepaid health plan enrollment to a beneficiary in order to encourage the beneficiary to enroll, the marketing representative shall leave with the beneficiary printed information identifying the marketing representative by name and prepaid health plan represented.

(e) All printed or illustrated material prepared by the prepaid health plan for dissemination to enrollees or to prospective enrollees shall be submitted to the department prior to dissemination. The department shall acknowledge receipt of the printed or illustrated material within five days, and shall approve or disapprove the material for dissemination within 60 days after the date of notification that the material has been received. The department may withdraw approval of the material previously approved and order its dissemination discontinued. If the department notifies the prepaid health plan of its disapproval or withdrawal of approval, the prepaid health plan shall have the right to

meet and confer with the director or his or her designee and demonstrate the purpose and reasonable basis for the distribution of the material to enrollees and potential enrollees.

(f) (1) Any form of door-to-door or in-person marketing that coerces or misleads beneficiaries or selectively enrolls beneficiaries on the basis of their health status is unlawful. In addition, on or after July 1, 1996, door-to-door solicitation of Medi-Cal enrollees shall not be permitted.

(2) On or after July 1, 1996, the health care options presentation required by Sections 14016.5 and 14016.6 or the health care options information required by Sections 14087.305 and 14089 shall be fully operational in counties specified by the director for expansion of the Medi-Cal managed care program or in counties where prepaid health plans are contracting with the department pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, 14087.96, 14089, and 14089.05. In these counties, on or after July 1, 1996, no enrollment of beneficiaries by prepaid health plans shall occur during in-person marketing activities or during health fairs pursuant to paragraph (5) of subdivision (f). Enrollment shall be exclusively performed and transmitted pursuant to the program required by Sections 14016.5, 14016.6, 14087.305, and 14089.

(3) In the event the health care options presentation required by Sections 14016.5 and 14016.6 is not fully operational or the health care options information required by Sections 14087.305 and 14089 is not fully available, as specified in paragraph (2) of subdivision (f), the department shall perform the enrollment-only functions until the health care options presentation or information is fully operational or available.

(4) Nothing in this section shall preclude a prepaid health plan from responding to inquiries initiated by beneficiaries or potential beneficiaries.

(5) Until July 1, 1996, a prepaid health plan may participate in an organized community or neighborhood health fair in a public place only if two or more prepaid health plans are participating, or if the plan is invited by the sponsor of the fair. If there are not two or more prepaid health plans providing services to Medi-Cal beneficiaries in a prepaid health plan's service area, this subdivision shall not apply. On or after July 1, 1996, a prepaid health plan may participate in an organized community or neighborhood health fair in a public place for marketing purposes.

(g) Any prepaid health plan, marketing representative, or marketing organization that violates subdivision (f) shall be subject to the sanctions set forth in subdivision (b) of Section 14409 and shall be guilty of a misdemeanor and subject to a fine of five hundred dollars (\$500) or imprisonment in a county jail for six months, or both, for each violation.

(h) The department shall certify each marketing representative prior to participation in the program in accordance with standards established by the department. Continuing certification for participation in the program shall be contingent upon compliance with this article, as well as guidelines and standards adopted by the department, and may be withdrawn upon their violation, as determined by the department. The department may temporarily decertify any marketing representative when that action is necessary to protect the public welfare or the interests of the Medi-Cal program. Temporary decertification shall be effective immediately upon written notice to the marketing representative and the managed care contractor, and shall remain in effect until the department has made a determination on the merits. Temporary decertification shall be canceled unless the department acts to permanently withdraw certification within 60 days.

(i) No prepaid health plan shall employ in any capacity relating to the marketing operations of the plan a marketing representative whose certification has been withdrawn. Marketing representatives shall not be recertified for participation until the cause for withdrawal of certification has been corrected to the satisfaction of the department. Proof of correction shall be the sole responsibility of the marketing representative.

SEC. 390. Section 15657 of the Welfare and Institutions Code is amended to read:

15657. Where it is proven by clear and convincing evidence that a defendant is liable for physical abuse as defined in Section 15610.63, neglect as defined in Section 15610.57, or financial abuse as defined in Section 15610.30, and that the defendant has been guilty of recklessness, oppression, fraud, or malice in the commission of this abuse, in addition to all other remedies otherwise provided by law:

(a) The court shall award to the plaintiff reasonable attorney's fees and costs. The term "costs" includes, but is not limited to, reasonable fees for the services of a conservator, if any, devoted to the litigation of a claim brought under this article.

(b) The limitations imposed by Section 377.34 of the Code of Civil Procedure on the damages recoverable shall not apply. However, the damages recovered shall not exceed the damages permitted to be recovered pursuant to subdivision (b) of Section 3333.2 of the Civil Code.

(c) The standards set forth in subdivision (b) of Section 3294 of the Civil Code regarding the imposition of punitive damages on an employer based upon the acts of an employee shall be satisfied before any damages or attorney's fees permitted under this section may be imposed against an employer.

SEC. 391. Section 15657.03 of the Welfare and Institutions Code is amended to read:

15657.03. (a) An elder or dependent adult who has suffered abuse as defined in Section 15610.07 may seek protective orders as provided in this section.

(b) For the purposes of this section, “protective order” means an order that includes any of the following restraining orders, whether issued ex parte, after notice and hearing, or in a judgment:

(1) An order enjoining a party from abusing, intimidating, molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, harassing, telephoning, including, but not limited to, annoying telephone calls as described in Section 653m of the Penal Code, destroying personal property, contacting, either directly or indirectly, by mail or otherwise, or coming within a specified distance of, or disturbing the peace of the petitioner.

(2) An order excluding a party from the petitioner’s residence or dwelling, except that this order shall not be issued if legal or equitable title to, or lease of, the residence or dwelling is in the sole name of the party to be excluded or is in the name of the party to be excluded and any other party besides the petitioner.

(3) An order enjoining a party from specified behavior that the court determines is necessary to effectuate orders described in paragraph (1) or (2).

(c) An order may be issued under this section, with or without notice, to restrain any person for the purpose of preventing a recurrence of abuse, if an affidavit shows, to the satisfaction of the court, reasonable proof of a past act or acts of abuse of the petitioning elder or dependent adult.

(d) (1) Upon filing a petition for protective orders under this section, the petitioner may obtain a temporary restraining order in accordance with Section 527 of the Code of Civil Procedure, except to the extent this section provides a rule that is inconsistent. The temporary restraining order may include any of the protective orders described in subdivision (b). However, the court may issue an ex parte order excluding a party from the petitioner’s residence or dwelling only on a showing of all of the following:

(A) Facts sufficient for the court to ascertain that the party who will stay in the dwelling has a right under color of law to possession of the premises.

(B) That the party to be excluded has assaulted or threatens to assault the petitioner.

(C) That physical or emotional harm would otherwise result to the petitioner.

(2) If a temporary restraining order is granted without notice, the matter shall be made returnable on an order requiring cause to be shown

why a permanent order should not be granted, on the earliest day that the business of the court will permit, but not later than 20 days or, if good cause appears to the court, 25 days from the date the temporary restraining order is granted, unless the order is otherwise modified or terminated by the court.

(e) The court may issue, upon notice and a hearing, any of the orders set forth in subdivision (b). The court may issue, after notice and hearing, an order excluding a person from a residence or dwelling if the court finds that physical or emotional harm would otherwise result to the other party.

(f) In the discretion of the court, an order issued after notice and a hearing under this section may have a duration of not more than three years, subject to termination or modification by further order of the court either on written stipulation filed with the court or on the motion of a party. These orders may be renewed upon the request of a party, either for three years or permanently, without a showing of any further abuse since the issuance of the original order, subject to termination or modification by further order of the court either on written stipulation filed with the court or on the motion of a party. The failure to state the expiration date on the face of the form creates an order with a duration of three years from the date of issuance.

(g) Upon the filing of a petition for protective orders under this section, the respondent shall be personally served with a copy of the petition, notice of the hearing or order to show cause, temporary restraining order, if any, and any affidavits in support of the petition. Service shall be made at least two days before the hearing. The court may, on motion of the petitioner or on its own motion, shorten the time for service on the respondent.

(h) The court may, upon the filing of an affidavit by the applicant that the respondent could not be served within the time required by statute, reissue an order previously issued and dissolved by the court for failure to serve the respondent. The reissued order shall be made returnable on the earliest day that the business of the court will permit, but not later than 20 days or, if good cause appears to the court, 25 days from the date of reissuance. The reissued order shall state on its face the date of expiration of the order.

(i) (1) If the person named in a temporary restraining order is personally served with the order and notice of hearing with respect to a restraining order or protective order based thereon, but the person does not appear at the hearing, either personally or by counsel, and the terms and conditions of the restraining order or protective order, are identical to the temporary restraining order, except for the duration of the order, then the restraining order or protective order may be served on the person

by first-class mail sent to that person at the most current address for the person available to the court.

(2) The judicial form for orders issued pursuant to this subdivision shall contain a statement in substantially the following form:

“NO ADDITIONAL PROOF OF SERVICE IS REQUIRED IF THE FACE OF THIS FORM INDICATES THAT BOTH PARTIES WERE PERSONALLY PRESENT AT THE HEARING WHERE THE ORDER WAS ISSUED. IF YOU HAVE BEEN PERSONALLY SERVED WITH A TEMPORARY RESTRAINING ORDER OR EMERGENCY PROTECTIVE ORDER AND NOTICE OF HEARING, BUT YOU DO NOT APPEAR AT THE HEARING EITHER IN PERSON OR BY COUNSEL, AND A RESTRAINING ORDER OR PROTECTIVE ORDER IS ISSUED AT THE HEARING THAT DOES NOT DIFFER FROM THE PRIOR TEMPORARY RESTRAINING ORDER OR EMERGENCY PROTECTIVE ORDER, A COPY OF THE ORDER WILL BE SERVED UPON YOU BY MAIL AT THE FOLLOWING ADDRESS _____. IF THAT ADDRESS IS NOT CORRECT OR YOU WISH TO VERIFY THAT THE TEMPORARY OR EMERGENCY ORDER WAS MADE PERMANENT WITHOUT SUBSTANTIVE CHANGE, CALL THE CLERK OF THE COURT AT _____.”

(j) (1) The court shall order the petitioner or the attorney for the petitioner to deliver, or the clerk of the court to mail, a copy of an order issued under this section, or a reissuance, extension, modification, or termination of the order, and any subsequent proof of service, by the close of the business day on which the order, reissuance, extension, modification, or termination was made, to each local law enforcement agency designated by the petitioner or the attorney for the petitioner having jurisdiction over the residence of the petitioner, and to any additional law enforcement agencies within the court’s discretion as are requested by the petitioner. Each appropriate law enforcement agency shall make available information as to the existence and current status of these orders to law enforcement officers responding to the scene of reported abuse.

(2) An order issued under this section shall, on request of the petitioner, be served on the respondent, whether or not the respondent has been taken into custody, by any law enforcement officer who is present at the scene of reported abuse involving the parties to the proceeding. The petitioner shall provide the officer with an endorsed copy of the order and a proof of service which the officer shall complete and send to the issuing court.

(3) Upon receiving information at the scene of an incident of abuse that a protective order has been issued under this section, or that a person who has been taken into custody is the respondent to that order, if the protected person cannot produce a certified copy of the order, a law enforcement officer shall immediately attempt to verify the existence of the order.

(4) If the law enforcement officer determines that a protective order has been issued, but not served, the officer shall immediately notify the respondent of the terms of the order and shall at that time also enforce the order. Verbal notice of the terms of the order shall constitute service of the order and is sufficient notice for the purposes of this section and for the purposes of Section 273.6 of the Penal Code.

(k) Nothing in this section shall preclude either party from representation by private counsel or from appearing on the party's own behalf.

(l) There is no filing fee for a petition, response, or paper seeking the reissuance, modification, or enforcement of a protective order filed in a proceeding brought pursuant to this section.

(m) (1) Fees otherwise payable by a petitioner to a law enforcement agency for serving an order issued under this section may be waived in any case in which the petitioner has requested a fee waiver on the initiating petition and has filed a declaration that demonstrates, to the satisfaction of the court, the financial need of the petitioner for the fee waiver. The declaration required by this subdivision shall be on one of the following forms:

(A) The form formulated and adopted by the Judicial Council for litigants proceeding in forma pauperis pursuant to Section 68511.3 of the Government Code, but the petitioner is not subject to any other requirements of litigants proceeding in forma pauperis.

(B) Any other form that the Judicial Council may adopt for this purpose pursuant to subdivision (r).

(2) In conjunction with a hearing pursuant to this section, the court may make an order for the waiver of fees otherwise payable by the petitioner to a law enforcement agency for serving an order issued under this section.

(n) The prevailing party in any action brought under this section may be awarded court costs and attorney's fees, if any.

(o) (1) An order issued pursuant to this section shall prohibit the person subject to it from owning, possessing, purchasing, receiving, or attempting to purchase or receive, a firearm.

(2) Paragraph (1) shall not apply to a case consisting solely of financial abuse unaccompanied by force, threat, harassment, intimidation, or any other form of abuse.

(3) The court shall order a person subject to a protective order issued under this section to relinquish any firearms he or she owns or possesses pursuant to Section 527.9 of the Code of Civil Procedure.

(4) Every person who owns, possesses, purchases, or receives, or attempts to purchase or receive a firearm while the protective order is in effect is punishable pursuant to subdivision (g) of Section 12021 of the Penal Code.

(p) Any willful disobedience of any temporary restraining order or restraining order after hearing granted under this section is punishable pursuant to Section 273.6 of the Penal Code.

(q) This section does not apply to any action or proceeding covered by Title 1.6C (commencing with Section 1788) of the Civil Code, by Chapter 3 (commencing with Section 525) of the Code of Civil Procedure, or by Division 10 (commencing with Section 6200) of the Family Code. Nothing in this section shall preclude a petitioner's right to use other existing civil remedies.

(r) The Judicial Council shall promulgate forms and instructions therefor, rules for service of process, scheduling of hearings, and any other matters required by this section. The petition and response forms shall be simple and concise.

SEC. 392. Section 16121.05 of the Welfare and Institutions Code is amended to read:

16121.05. (a) The department may recover any overpayments of financial assistance under the Adoption Assistance Program, and shall develop regulations that establish the means to recoup them, including an appropriate notice of action and appeal rights, when the department determines either of the following applies:

(1) The adoptive parents are no longer legally responsible for the support of the child.

(2) The child is no longer receiving support from the adoptive family.

(3) The adoptive family has committed fraud in its application for, or reassessment of, the adoption assistance.

(b) Children on whose behalf an adoption assistance agreement had been executed prior to October 1, 1992, shall continue to receive adoption assistance in accordance with the terms of that agreement.

(c) Payment shall begin on or after the effective date of an adoption assistance agreement, or a deferred adoption assistance agreement, or a final decree of adoption, provided that the adoption assistance agreement has been signed by all required parties prior to or at the time the adoption decree is issued by the court.

(d) Children on whose behalf an aid for adoption of children agreement had been executed prior to October 1, 1982, shall continue to receive aid for adoption of children benefits in accordance with the terms of that agreement. This aid for adoption of children agreement may be

renewed, provided that total benefits do not exceed five years. Prior to the end of the five-year period, if there is a continuing need related to a chronic health condition of the child that necessitated the initial financial assistance, the time period for which it may be given shall be determined by the department or the agency, but shall not extend past the time that the child reaches 18 years of age. Prior to the expiration of the extension period, if there is a continuing need, a parent may petition the department or the designated licensed adoption agency for a new period of termination. The department or the agency shall make its determination regarding the financial ability of the parents to meet the continuing medical needs of the child's health condition at the time of adoption, taking into consideration community resources.

SEC. 393. Section 16501.6 of the Welfare and Institutions Code is amended to read:

16501.6. (a) It is the intent of the Legislature for the State Department of Social Services to enhance the Child Welfare Services Case Management System to include information concerning the level of care required, educational accomplishments, and health history of children placed in foster care. If appropriate, this enhancement could be made after the system is operational statewide as required in Section 16501.5.

(b) The department shall conduct a study to examine the most efficient methods of collecting and maintaining all of the following data for each child in foster care:

(1) The names and addresses of the child's health and educational providers.

(2) The child's grade level performance.

(3) The child's school record.

(4) Assurances that the child's placement in foster care takes into account proximity to the school in which the child is enrolled at the time of placement.

(5) A record of the child's immunizations.

(6) The child's known medical problems.

(7) The child's medications.

(8) Any other relevant level of care, health, and education information concerning the child as determined appropriate by the department.

(c) In conducting its study, the department shall, as required, examine county health passport systems for possible replication on a statewide basis and consult with other state departments, county associations, and provider groups.

(d) By February 15, 1992, the department shall submit a report to the appropriate policy and fiscal committees of the Legislature on the results of its study. The department shall include the following in its report:

(1) Recommendations for coordinating data collection among local child health and disability prevention programs, other health care providers, county welfare departments, schools, and other agencies providing services for foster children.

(2) Recommendations for the interfacing with any alternative system recommended pursuant to paragraph (1) with the mental health assessment required by Section 5407, and with other requirements of law.

(e) The report required by subdivision (d) shall address the feasibility, timeframe, and estimated costs of doing either of the following:

(1) Incorporating the data specified in subdivision (b) in the Child Welfare Services Case Management System.

(2) Implementing an alternative system that is more appropriate for the collection and maintenance of the data specified in subdivision (b).

SEC. 394. Section 18358 of the Welfare and Institutions Code is amended to read:

18358. The definitions contained in this section shall govern the construction of this chapter, unless the context requires otherwise:

(a) "Department" means the State Department of Social Services.

(b) "Eligible children" means children who meet all of the following conditions:

(1) Children who are emotionally disturbed, as evidenced by a history that may include, but is not limited to, all of the specific behavior management problems:

(A) Lying.

(B) Stealing.

(C) Verbal or physical aggression.

(D) Unacceptable sexual behavior.

(E) Attempts at self-mutilation or suicide.

(F) Defiant and oppositional behavior.

(2) Children who, as a result of their emotional disturbance, have been either:

(A) Placed in a group home with a rate classification level of 12 or higher pursuant to Section 11462.

(B) Assessed by the child's county interagency review team as at imminent risk of psychiatric hospitalization or placement in a group home with a rate classification level of 12 or higher pursuant to Section 11462.

(3) Children who have successfully completed the group home program, except children on probation or otherwise in the custody of the juvenile court for any violent felony, as defined in subdivision (c) of Section 667.5 of the Penal Code.

(4) Any child who is voluntarily placed in a group home with a rate classification level of 12 or higher pursuant to Section 7572.5 of the Government Code.

SEC. 395. Section 1 of Chapter 68 of the Statutes of 2003 is amended to read:

Sec. 1. For purposes of this chapter, the following terms have the following meanings:

(a) "BCDC" means the San Francisco Bay Conservation and Development Commission established pursuant to Section 66620 of the Government Code.

(b) "Bay jurisdiction" means the jurisdiction, powers, and duties of BCDC pursuant to Title 7.2 (commencing with Section 66600) of the Government Code within the area defined in subdivision (a) of Section 66610 of the Government Code.

(c) "Bay Plan" means the San Francisco Bay Plan as adopted and administered by BCDC pursuant to Title 7.2 (commencing with Section 66600) of the Government Code, including all amendments thereto.

(d) "Boundary of the Port of San Francisco" means that line defining the boundary of "Parcel A" in the description of the lands transferred in trust to the City and County of San Francisco pursuant to Chapter 1333 of the Statutes of 1968, recorded on May 14, 1976, in Book C169, pages 573 to 664, inclusive, in the City and County of San Francisco Assessor-Recorder's Office.

(e) "Brannan Street Wharf" means a major San Francisco waterfront park in the area of Piers 34 and 36, as identified in the Special Area Plan.

(f) "Burton Act" means Chapter 1333 of the Statutes of 1968, as amended.

(g) "Burton Act trust" means the statutory trust imposed by the Burton Act (Chapter 1333 of the Statutes of 1968, as amended), pursuant to which the state conveyed to the City and County of San Francisco, in trust, by transfer agreement, and subject to certain terms, conditions, and reservations, the state's interest in certain tide and submerged lands.

(h) "City" means the City and County of San Francisco.

(i) "McAteer-Petris Act" means Title 7.2 (commencing with Section 66600) of the Government Code.

(j) "Public trust" or "trust" means the public trust for commerce, navigation, and fisheries.

(k) "Port" means the City and County of San Francisco acting by and through the San Francisco Port Commission.

(l) "San Francisco Bay" means those areas defined in Section 66610 of the Government Code.

(m) "San Francisco waterfront" means those portions of the area transferred to the Port pursuant to the Burton Act that also lie within the

area defined in subdivisions (a) and (b) of Section 66610 of the Government Code.

(n) "Seawall Lot 330" means that parcel of property located in San Francisco identified on that certain map entitled SUR 790, and shown on Page 318 of the City and County of San Francisco 100 Scale Ownership Maps, which is on file with the city's Bureau of Street Use and Mapping.

(o) "Shoreline band jurisdiction" means the jurisdiction, powers, and duties of BCDC pursuant to Title 7.2 (commencing with Section 66600) of the Government Code to regulate uses within the area defined in subdivision (b) of Section 66610 of the Government Code to ensure, in part, maximum feasible public access, as prescribed in Section 66632.4 of the Government Code.

(p) "Special Area Plan" means the San Francisco Waterfront Special Area Plan, dated July 20, 2000, adopted by BCDC, as amended from time to time.

(q) "Street" means those lands located within the South Beach/China Basin Planning area of the San Francisco waterfront at Seawall Lot 330, and also lying within Parcel A of those lands transferred to the City and County of San Francisco pursuant to the Burton Act, as recorded May 14, 1969, in Book C 169 at Pages 573 to 664, inclusive, in the San Francisco Assessor-Recorder's Office, as more particularly described as that portion of Main Street, located between Bryant Street and the Embarcadero, vacated per Ordinance 14-93 on January 11, 1993, on file with the San Francisco Bureau of Street Use and Mapping, in Book 10, Page 94. All streets and street lines described in the preceding sentence are in accordance with that certain map entitled SUR 790, and shown on Page 318 of the City and County of San Francisco 100 Scale Ownership Maps, on file with the City's Bureau of Street Use and Mapping.

(r) "Waterfront Land Use Plan" means the Waterfront Land Use Plan, including the Waterfront Design and Access Element, adopted by the Port pursuant to Resolution No. 97-50, as amended from time to time.

SEC. 396. Section 13 of Chapter 673 of the Statutes of 2003 is amended to read:

Sec. 13. (a) 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, except as provided in subdivision (b) or (c).

(b) In the event that the provisions of Section 2160.1 of the Labor Code are held invalid and this action is affirmed on final appeal, an employer may qualify for a full credit for those amounts spent for providing or reimbursing health care benefits, allowable by state law as

a deductible business expense if the amount spent equals or exceeds the lower of the cost for the Healthy Families Program or 150 percent of the cost for Medi-Cal 1931(b) coverage. In no instance shall the amount of the credit exceed the amount of the fee that would otherwise have been paid. The Employment Development Department shall specify the manner and means of submitting proof to obtain the credit.

(c) In the event that Chapter 8.7 (commencing with Section 2120) of Division 2 of the Labor Code is held invalid, Article 3.11 (commencing with Section 1357.20) of Chapter 2.2 of Division 2 of the Health and Safety Code and Chapter 8.1 (commencing with Section 11760) of Part 2 of Division 2 of the Insurance Code shall become inoperative.

SEC. 397. Any section of any act enacted by the Legislature during the 2004 calendar year that takes effect on or before January 1, 2005, and that amends, amends and renumbers, adds, repeals and adds, or repeals a section that is amended, amended and renumbered, added, repealed and added, or repealed by this act, shall prevail over this act, whether that act is enacted prior to, or subsequent to, the enactment of this act. The repeal, or repeal and addition, of any article, chapter, part, title, or division of any code by this act shall not become operative if any section of any other act that is enacted by the Legislature during the 2004 calendar year and takes effect on or before January 1, 2005, amends, amends and renumbers, adds, repeals and adds, or repeals any section contained in that article, chapter, part, title, or division.

CHAPTER 184

An act to amend Sections 11105, 11105.3, and 14203 of the Penal Code, to amend Section 5164 of the Public Resources Code, and to amend Sections 2432.3 and 13377 of the Vehicle Code, relating to criminal history information, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 23, 2004. Filed with
Secretary of State July 23, 2004.]

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

SECTION 1. Section 11105 of the Penal Code is amended to read:
11105. (a) (1) The Department of Justice shall maintain state summary criminal history information.

(2) As used in this section:

(A) "State summary criminal history information" means the master record of information compiled by the Attorney General pertaining to

the identification and criminal history of any person, such as name, date of birth, physical description, fingerprints, photographs, date of arrests, arresting agencies and booking numbers, charges, dispositions, and similar data about the person.

(B) “State summary criminal history information” does not refer to records and data compiled by criminal justice agencies other than the Attorney General, nor does it refer to records of complaints to or investigations conducted by, or records of intelligence information or security procedures of, the office of the Attorney General and the Department of Justice.

(b) The Attorney General shall furnish state summary criminal history information to any of the following, if needed in the course of their duties, provided that when information is furnished to assist an agency, officer, or official of state or local government, a public utility, or any other entity, in fulfilling employment, certification, or licensing duties, Chapter 1321 of the Statutes of 1974 and Section 432.7 of the Labor Code shall apply:

(1) The courts of the state.

(2) Peace officers of the state as defined in Section 830.1, subdivisions (a) and (e) of Section 830.2, subdivision (a) of Section 830.3, subdivisions (a) and (b) of Section 830.5, and subdivision (a) of Section 830.31.

(3) District attorneys of the state.

(4) Prosecuting city attorneys of any city within the state.

(5) Probation officers of the state.

(6) Parole officers of the state.

(7) A public defender or attorney of record when representing a person in proceedings upon a petition for a certificate of rehabilitation and pardon pursuant to Section 4852.08.

(8) A public defender or attorney of record when representing a person in a criminal case and if authorized access by statutory or decisional law.

(9) Any agency, officer, or official of the state if the criminal history information is required to implement a statute or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions, or both, expressly based upon that specified criminal conduct. The agency, officer, or official of the state authorized by this paragraph to receive state summary criminal history information may also transmit fingerprint images and related information to the Department of Justice to be transmitted to the Federal Bureau of Investigation.

(10) Any city or county, or city and county, or district, or any officer, or official thereof if access is needed in order to assist that agency, officer,

or official in fulfilling employment, certification, or licensing duties, and if the access is specifically authorized by the city council, board of supervisors, or governing board of the city, county, or district if the criminal history information is required to implement a statute, ordinance, or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions, or both, expressly based upon that specified criminal conduct. The city or county, or city and county, or district, or the officer or official thereof authorized by this paragraph may also transmit fingerprint images and related information to the Department of Justice to be transmitted to the Federal Bureau of Investigation.

(11) The subject of the state summary criminal history information under procedures established under Article 5 (commencing with Section 11120) of Chapter 1 of Title 1 of Part 4.

(12) Any person or entity when access is expressly authorized by statute if the criminal history information is required to implement a statute or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions, or both, expressly based upon that specified criminal conduct.

(13) Health officers of a city, county, or city and county, or district, when in the performance of their official duties enforcing Section 120175 of the Health and Safety Code.

(14) Any managing or supervising correctional officer of a county jail or other county correctional facility.

(15) Any humane society, or society for the prevention of cruelty to animals, for the specific purpose of complying with Section 14502 of the Corporations Code for the appointment of level 1 humane officers.

(16) Local child support agencies established by Section 17304 of the Family Code. When a local child support agency closes a support enforcement case containing summary criminal history information, the agency shall delete or purge from the file and destroy any documents or information concerning or arising from offenses for or of which the parent has been arrested, charged, or convicted, other than for offenses related to the parent's having failed to provide support for minor children, consistent with the requirements of Section 17531 of the Family Code.

(17) County child welfare agency personnel who have been delegated the authority of county probation officers to access state summary criminal history information pursuant to Section 272 of the Welfare and Institutions Code for the purposes specified in Section 16504.5 of the Welfare and Institutions Code. Information from criminal history records provided pursuant to this subdivision shall not be used for any

purposes other than those specified in this section and Section 16504.5 of the Welfare and Institutions Code. When an agency obtains records obtained both on the basis of name checks and fingerprint checks, final placement decisions shall be based only on the records obtained pursuant to the fingerprint check.

(c) The Attorney General may furnish state summary criminal history information upon a showing of a compelling need to any of the following, provided that when information is furnished to assist an agency, officer, or official of state or local government, a public utility, or any other entity, in fulfilling employment, certification, or licensing duties, Chapter 1321 of the Statutes of 1974 and Section 432.7 of the Labor Code shall apply:

(1) Any public utility as defined in Section 216 of the Public Utilities Code that operates a nuclear energy facility when access is needed in order to assist in employing persons to work at the facility, provided that, if the Attorney General supplies the data, he or she shall furnish a copy of the data to the person to whom the data relates.

(2) To a peace officer of the state other than those included in subdivision (b).

(3) To a peace officer of another country.

(4) To public officers (other than peace officers) of the United States, other states, or possessions or territories of the United States, provided that access to records similar to state summary criminal history information is expressly authorized by a statute of the United States, other states, or possessions or territories of the United States if the information is needed for the performance of their official duties.

(5) To any person when disclosure is requested by a probation, parole, or peace officer with the consent of the subject of the state summary criminal history information and for purposes of furthering the rehabilitation of the subject.

(6) The courts of the United States, other states, or territories or possessions of the United States.

(7) Peace officers of the United States, other states, or territories or possessions of the United States.

(8) To any individual who is the subject of the record requested if needed in conjunction with an application to enter the United States or any foreign nation.

(9) Any public utility as defined in Section 216 of the Public Utilities Code, if access is needed in order to assist in employing current or prospective employees who in the course of their employment may be seeking entrance to private residences. The information provided shall be limited to the record of convictions and any arrest for which the person is released on bail or on his or her own recognizance pending trial.

If the Attorney General supplies the data pursuant to this paragraph, the Attorney General shall furnish a copy of the data to the current or prospective employee to whom the data relates.

Any information obtained from the state summary criminal history is confidential and the receiving public utility shall not disclose its contents, other than for the purpose for which it was acquired. The state summary criminal history information in the possession of the public utility and all copies made from it shall be destroyed not more than 30 days after employment or promotion or transfer is denied or granted, except for those cases where a current or prospective employee is out on bail or on his or her own recognizance pending trial, in which case the state summary criminal history information and all copies shall be destroyed not more than 30 days after the case is resolved.

A violation of this paragraph is a misdemeanor, and shall give the current or prospective employee who is injured by the violation a cause of action against the public utility to recover damages proximately caused by the violations. Any public utility's request for state summary criminal history information for purposes of employing current or prospective employees who may be seeking entrance to private residences in the course of their employment shall be deemed a "compelling need" as required to be shown in this subdivision.

Nothing in this section shall be construed as imposing any duty upon public utilities to request state summary criminal history information on any current or prospective employees.

(10) To any campus of the California State University or the University of California, or any four-year college or university accredited by a regional accreditation organization approved by the United States Department of Education, if needed in conjunction with an application for admission by a convicted felon to any special education program for convicted felons, including, but not limited to, university alternatives and halfway houses. Only conviction information shall be furnished. The college or university may require the convicted felon to be fingerprinted, and any inquiry to the department under this section shall include the convicted felon's fingerprints and any other information specified by the department.

(d) Whenever an authorized request for state summary criminal history information pertains to a person whose fingerprints are on file with the Department of Justice and the department has no criminal history of that person, and the information is to be used for employment, licensing, or certification purposes, the fingerprint card accompanying the request for information, if any, may be stamped "no criminal record" and returned to the person or entity making the request.

(e) Whenever state summary criminal history information is furnished as the result of an application and is to be used for

employment, licensing, or certification purposes, the Department of Justice may charge the person or entity making the request a fee that it determines to be sufficient to reimburse the department for the cost of furnishing the information. In addition, the Department of Justice may add a surcharge to the fee to fund maintenance and improvements to the systems from which the information is obtained. Notwithstanding any other law, any person or entity required to pay a fee to the department for information received under this section may charge the applicant a fee sufficient to reimburse the person or entity for this expense. All moneys received by the department pursuant to this section, Sections 11105.3 and 12054 of the Penal Code, and Section 13588 of the Education Code shall be deposited in a special account in the General Fund to be available for expenditure by the department to offset costs incurred pursuant to those sections and for maintenance and improvements to the systems from which the information is obtained upon appropriation by the Legislature.

(f) Whenever there is a conflict, the processing of criminal fingerprints and fingerprints of applicants for security guard or alarm agent registrations or firearms qualification permits submitted pursuant to Section 7583.9, 7583.23, 7596.3, or 7598.4 of the Business and Professions Code shall take priority over the processing of other applicant fingerprints.

(g) It is not a violation of this section to disseminate statistical or research information obtained from a record, provided that the identity of the subject of the record is not disclosed.

(h) It is not a violation of this section to include information obtained from a record in (1) a transcript or record of a judicial or administrative proceeding or (2) any other public record if the inclusion of the information in the public record is authorized by a court, statute, or decisional law.

(i) Notwithstanding any other law, the Department of Justice or any state or local law enforcement agency may require the submission of fingerprints for the purpose of conducting summary criminal history information checks that are authorized by law.

(j) The state summary criminal history information shall include any finding of mental incompetence pursuant to Chapter 6 (commencing with Section 1367) of Title 10 of Part 2 arising out of a complaint charging a felony offense specified in Section 290.

(k) (1) This subdivision shall apply whenever state or federal summary criminal history information is furnished by the Department of Justice as the result of an application by an authorized agency or organization and the information is to be used for peace officer employment or certification purposes. As used in this subdivision, a

peace officer is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2.

(2) Notwithstanding any other provision of law, whenever state summary criminal history information is furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:

(A) Every conviction rendered against the applicant.

(B) Every arrest for an offense for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on his or her own recognizance pending trial.

(C) Every arrest or detention, except for an arrest or detention resulting in an exoneration, provided however that where the records of the Department of Justice do not contain a disposition for the arrest, the Department of Justice first makes a genuine effort to determine the disposition of the arrest.

(D) Every successful diversion.

(l) (1) This subdivision shall apply whenever state or federal summary criminal history information is furnished by the Department of Justice as the result of an application by a criminal justice agency or organization as defined in Section 13101 of the Penal Code, and the information is to be used for criminal justice employment, licensing, or certification purposes.

(2) Notwithstanding any other provision of law, whenever state summary criminal history information is furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:

(A) Every conviction rendered against the applicant.

(B) Every arrest for an offense for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on his or her own recognizance pending trial.

(C) Every arrest for an offense for which the records of the Department of Justice do not contain a disposition or did not result in a conviction, provided that the Department of Justice first makes a genuine effort to determine the disposition of the arrest. However, information concerning an arrest shall not be disclosed if the records of the Department of Justice indicate or if the genuine effort reveals that the subject was exonerated, successfully completed a diversion or deferred entry of judgment program, or the arrest was deemed a detention.

(m) (1) This subdivision shall apply whenever state or federal summary criminal history information is furnished by the Department of Justice as the result of an application by an authorized agency or organization pursuant to Section 1522, 1568.09, 1569.17, or 1596.871 of the Health and Safety Code, or any statute that incorporates the criteria of any of those sections or this subdivision by reference, and the

information is to be used for employment, licensing, or certification purposes.

(2) Notwithstanding any other provision of law, whenever state summary criminal history information is furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:

(A) Every conviction of an offense rendered against the applicant.

(B) Every arrest for an offense for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on his or her own recognizance pending trial.

(C) Every arrest for an offense for which the Department of Social Services is required by paragraph (1) of subdivision (a) of Section 1522 of the Health and Safety Code to determine if an applicant has been arrested. However, if the records of the Department of Justice do not contain a disposition for an arrest, the Department of Justice shall first make a genuine effort to determine the disposition of the arrest.

(3) Notwithstanding the requirements of the sections referenced in paragraph (1) of this subdivision, the Department of Justice shall not disseminate information about an arrest subsequently deemed a detention or an arrest that resulted in either the successful completion of a diversion program or exoneration.

(n) (1) This subdivision shall apply whenever state or federal summary criminal history information is furnished by the Department of Justice as the result of an application by an authorized agency, organization, or individual pursuant to Section 11105.3 or 11105.4 of this code, Section 15660 of the Welfare and Institutions Code, or any statute that incorporates the criteria of any of those sections or this subdivision by reference, and the information is to be used for employment, licensing, or certification purposes.

(2) With the exception of applications submitted by transportation companies authorized pursuant to Section 11105.3, and notwithstanding any other provision of law, whenever state summary criminal history information is furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:

(A) Every conviction rendered against the applicant for a violation or attempted violation of any offense specified in subdivision (a) of Section 15660 of the Welfare and Institutions Code. However, with the exception of those offenses for which registration is required pursuant to Section 290, the Department of Justice shall not disseminate information pursuant to this subdivision unless the conviction occurred within 10 years of the date of the agency's request for information or the conviction is over 10 years old but the subject of the request was incarcerated within 10 years of the agency's request for information.

(B) Every arrest for a violation or attempted violation of an offense specified in subdivision (a) of Section 15660 of the Welfare and Institutions Code for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on his or her own recognizance pending trial.

(o) (1) This subdivision shall apply whenever state or federal summary criminal history information is furnished by the Department of Justice as the result of an application by an authorized agency or organization pursuant to Section 261 or 777.5 of the Financial Code, or any statute that incorporates the criteria of either of those sections or this subdivision by reference, and the information is to be used for employment, licensing, or certification purposes.

(2) Notwithstanding any other provision of law, whenever state summary criminal history information is furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:

(A) Every conviction rendered against the applicant for a violation or attempted violation of any offense specified in Section 777.5 of the Financial Code.

(B) Every arrest for a violation or attempted violation of an offense specified in Section 777.5 of the Financial Code for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on his or her own recognizance pending trial.

(p) (1) This subdivision shall apply whenever state or federal criminal history information is furnished by the Department of Justice as the result of an application by an agency, organization, or individual not defined in subdivision (k), (l), (m), (n), or (o), or by a transportation company authorized pursuant to Section 11105.3, or any statute that incorporates the criteria of that section or this subdivision by reference, and the information is to be used for employment, licensing, or certification purposes.

(2) Notwithstanding any other provisions of law, whenever state summary criminal history information is furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:

(A) Every conviction rendered against the applicant.

(B) Every arrest for an offense for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on his or her own recognizance pending trial.

(q) All agencies, organizations, or individuals defined in subdivisions (k), (l), (m), (n), (o), and (p) may contract with the Department of Justice for subsequent arrest notification pursuant to Section 11105.2. This subdivision shall not supersede sections that mandate an agency, organization, or individual to contract with the

Department of Justice for subsequent arrest notification pursuant to Section 11105.2.

(r) Nothing in this section shall be construed to mean that the Department of Justice shall cease compliance with any other statutory notification requirements.

(s) The provisions of Section 50.12 of Title 28 of the Code of Federal Regulations are to be followed in processing federal criminal history information.

SEC. 2. Section 11105.3 of the Penal Code is amended to read:

11105.3. (a) Notwithstanding any other law, a human resource agency or an employer may request from the Department of Justice records of all convictions or any arrest pending adjudication involving the offenses specified in subdivision (a) of Section 15660 of the Welfare and Institutions Code of a person who applies for a license, employment, or volunteer position, in which he or she would have supervisory or disciplinary power over a minor or any person under his or her care. The department shall furnish the information to the requesting employer and shall also send a copy of the information to the applicant.

(b) Any request for records under subdivision (a) shall include the applicant's fingerprints, which may be taken by the requester, and any other data specified by the department. The request shall be on a form approved by the department, and the department may charge a fee to be paid by the employer, human resource agency, or applicant for the actual cost of processing the request. However, no fee shall be charged to a nonprofit organization. Requests received by the department for federal level criminal offender record information shall be forwarded to the Federal Bureau of Investigation by the department to be searched for any record of arrests or convictions.

(c) (1) Where a request pursuant to this section reveals that a prospective employee or volunteer has been convicted of a violation or attempted violation of Section 220, 261.5, 262, 273a, 273d, or 273.5, or any sex offense listed in Section 290, except for the offense specified in subdivision (d) of Section 243.4, and where the agency or employer hires the prospective employee or volunteer, the agency or employer shall notify the parents or guardians of any minor who will be supervised or disciplined by the employee or volunteer. A conviction for a violation or attempted violation of an offense committed outside the State of California shall be included in this notice if the offense would have been a crime specified in this subdivision if committed in California. The notice shall be given to the parents or guardians with whom the child resides, and shall be given at least 10 days prior to the day that the employee or volunteer begins his or her duties or tasks. Notwithstanding any other provision of law, any person who conveys or receives information in good faith and in conformity with this section is exempt

from prosecution under Section 11142 or 11143 for that conveying or receiving of information. Notwithstanding subdivision (d), the notification requirements of this subdivision shall apply as an additional requirement of any other provision of law requiring criminal record access or dissemination of criminal history information.

(2) The notification requirement pursuant to paragraph (1) shall not apply to a misdemeanor conviction for violating Section 261.5 or to a conviction for violating Section 262 or 273.5. Nothing in this paragraph shall preclude an employer from requesting records of convictions for violating Section 261.5, 262, or 273.5 from the Department of Justice pursuant to this section.

(d) Nothing in this section supersedes any law requiring criminal record access or dissemination of criminal history information. In any conflict with another statute, dissemination of criminal history information shall be pursuant to the mandatory statute. This subdivision applies to, but is not limited to, requirements pursuant to Article 1 (commencing with Section 1500) of Chapter 3 of, and Chapter 3.2 (commencing with Section 1569) and Chapter 3.4 (commencing with Section 1596.70) of, Division 2 of, and Section 1522 of, the Health and Safety Code, and Sections 8712, 8811, and 8908 of the Family Code.

(e) The department may adopt regulations to implement the provisions of this section as necessary.

(f) As used in this section, "employer" means any nonprofit corporation or other organization specified by the Attorney General which employs or uses the services of volunteers in positions in which the volunteer or employee has supervisory or disciplinary power over a child or children.

(g) As used in this section, "human resource agency" means a public or private entity, excluding any agency responsible for licensing of facilities pursuant to the California Community Care Facilities Act (Chapter 3 (commencing with Section 1500)), the California Residential Care Facilities for the Elderly Act (Chapter 3.2 (commencing with Section 1569)), Chapter 3.01 (commencing with Section 1568.01), and the California Child Day Care Facilities Act (Chapter 3.4 (commencing with Section 1596.70)) of Division 2 of the Health and Safety Code, responsible for determining the character and fitness of a person who is:

(1) Applying for a license, employment, or as a volunteer within the human services field that involves the care and security of children, the elderly, the handicapped, or the mentally impaired.

(2) Applying to be a volunteer who transports individuals impaired by drugs or alcohol.

(3) Applying to adopt a child or to be a foster parent.

(h) Except as provided in subdivision (c), any criminal history information obtained pursuant to this section is confidential and no

recipient shall disclose its contents other than for the purpose for which it was acquired.

SEC. 3. Section 14203 of the Penal Code is amended to read:

14203. (a) The online missing persons registry shall accept and generate complete information on a missing person.

(b) The information on a missing person shall be retrievable by any of the following:

(1) The person's name.

(2) The person's date of birth.

(3) The person's social security number.

(4) Whether a dental chart has been received, coded, and entered into the National Crime Information Center Missing Person System by the Attorney General.

(5) The person's physical description, including hair and eye color and body marks.

(6) The person's known associates.

(7) The person's last known location.

(8) The name or assumed name of the abductor, if applicable, other pertinent information relating to the abductor or the assumed abductor, or both.

(9) Any other information, as deemed appropriate by the Attorney General.

(c) The Attorney General, in consultation with local law enforcement agencies and other user groups, shall develop the form in which information shall be entered into the system.

(d) The Attorney General shall establish and maintain within the center a separate, confidential historic database relating to missing children and dependent adults. The historic database may be used only by the center for statistical and research purposes. The historic database shall be set up to categorize cases relating to missing children and dependent adults by type. These types shall include the following: runaways, voluntary missing, lost, abduction involving movement of the victim in the commission of the crime or sexual exploitation of the victim, nonfamily abduction, family abduction, and any other categories as determined by the Attorney General. In addition, the data shall include the number of missing children and missing dependent adults in this state and the category of each case.

(e) The center may supply information about specific cases from the historic database to a local police department, sheriff's department, or district attorney, only in connection with an investigation by the police department, sheriff's department, or district attorney of a missing person case or a violation or attempted violation of Section 220, 261.5, 262, 273a, 273d, or 273.5, or any sex offense listed in Section 290, except for the offense specified in subdivision (d) of Section 243.4.

SEC. 4. Section 5164 of the Public Resources Code is amended to read:

5164. (a) (1) A county or city or city and county or special district shall not hire a person for employment, or hire a volunteer to perform services, at a county or city or city and county or special district operated park, playground, recreational center, or beach used for recreational purposes, in a position having supervisory or disciplinary authority over any minor, if that person has been convicted of any offense specified in paragraph (2).

(2) (A) Violations or attempted violations of Section 220, 261.5, 262, 273a, 273d, or 273.5 of the Penal Code, or any sex offense listed in Section 290 of the Penal Code, except for the offense specified in subdivision (d) of Section 243.4 of the Penal Code.

(B) Any felony or misdemeanor conviction specified in subparagraph (C) within 10 years of the date of the employer's request.

(C) Any felony conviction that is over 10 years old, if the subject of the request was incarcerated within 10 years of the employer's request, for a violation or attempted violation of any of the offenses specified in Chapter 3 (commencing with Section 207) of Title 8 of Part 1 of the Penal Code, Section 211 or 215 of the Penal Code, wherein it is charged and proved that the defendant personally used a deadly or dangerous weapon, as provided in subdivision (b) of Section 12022 of the Penal Code, in the commission of that offense, Section 217.1 of the Penal Code, Section 236 of the Penal Code, any of the offenses specified in Chapter 9 (commencing with Section 240) of Title 8 of Part 1 of the Penal Code, or any of the offenses specified in subdivision (c) of Section 667.5 of the Penal Code, provided that no record of a misdemeanor conviction shall be transmitted to the requester unless the subject of the request has a total of three or more misdemeanor convictions, or a combined total of three or more misdemeanor and felony convictions, for violations listed in this section within the 10-year period immediately preceding the employer's request or has been incarcerated for any of those convictions within the preceding 10 years.

(b) (1) To give effect to this section, a county or city or city and county or special district shall require each such prospective employee or volunteer to complete an application that inquires as to whether or not that individual has been convicted of any offense specified in subdivision (a). The county or city or city and county or special district shall screen, pursuant to Section 11105.3 of the Penal Code, any such prospective employee or volunteer, having supervisory or disciplinary authority over any minor, for that person's criminal background.

(2) Any local agency requests for Department of Justice records pursuant to this subdivision shall include the prospective employee's or volunteer's fingerprints, which may be taken by the local agency, and

any other data specified by the Department of Justice. The request shall be made on a form approved by the Department of Justice. No fee shall be charged to the local agency for requesting the records of a prospective volunteer pursuant to this subdivision.

SEC. 5. Section 2432.3 of the Vehicle Code is amended to read:

2432.3. (a) This article does not preempt the authority of any city, city and county, or county to regulate, pursuant to subdivision (g) of Section 21100, any of the matters covered by this article.

(b) (1) For the purposes of verifying the criminal history of individuals involved in the operation of tow truck services, law enforcement agencies of any city, city and county, or county may conduct criminal history checks for all of the following:

(A) Applicants for employment to drive tow trucks.

(B) Those who drive tow trucks.

(C) Tow truck owners-operators.

(2) The law enforcement agency may obtain the fingerprints of the individuals on a form approved by the Department of Justice and provided by the agency. The fingerprint samples shall be submitted to the Department of Justice for the purpose of determining whether the individual has been convicted of any violation, including, but not limited to, Section 220, subdivision (1), (2), (3), or (4) of Section 261, or Section 264.1, 267, 288, or 289 of the Penal Code, or any felony or three misdemeanors as set forth in subparagraph (B) of paragraph (2) of subdivision (a) of Section 5164 of the Public Resources Code.

(3) For purposes of conducting criminal history screening of tow truck driver applicants, employees, and employers who have not resided continuously in the state for the previous seven years, the law enforcement agency of any city, city and county, or county, may obtain a second set of fingerprints, when necessary, and may submit that card to the Federal Bureau of Investigation for out-of-state criminal history checks.

(c) The law enforcement agency of any city, city and county, or county may charge a fee sufficient to cover the cost of obtaining and processing the fingerprint cards through the Department of Justice.

(d) For the purposes of conducting driver history screening of applicants to drive tow trucks, employees, and owners-operators, the law enforcement agency of any city, city and county, or county may verify that the applicant or owner-operator, as the case may be, has a valid California driver's license of the proper class, through the use of the automated records system.

(e) The Department of Justice shall develop a procedure whereby it will notify the requesting law enforcement agency if the person fingerprinted has been convicted of any of the specified crimes or is convicted of a specified crime subsequent to employment or beginning

operation of a tow service. The Department of Justice shall release the requested information to the requesting agency.

(f) Information released to the requesting agency may be utilized for licensing and regulating procedures established pursuant to subdivision (g) of Section 21100.

(g) Information released to the requesting agency shall be related to its inquiry, shall remain confidential, and shall not be made public.

SEC. 6. Section 13377 of the Vehicle Code is amended to read:

13377. (a) The department shall not issue or renew, or shall revoke, the tow truck driver certificate of an applicant or holder for any of the following causes:

(1) The tow truck driver certificate applicant or holder has been convicted of a violation of Section 220 of the Penal Code.

(2) The tow truck driver certificate applicant or holder has been convicted of a violation of paragraph (1), (2), (3), or (4) of subdivision (a) of Section 261 of the Penal Code.

(3) The tow truck driver certificate applicant or holder has been convicted of a violation of Section 264.1, 267, 288, or 289 of the Penal Code.

(4) The tow truck driver certificate applicant or holder has been convicted of any felony or three misdemeanors as set forth in subparagraph (B) of paragraph (2) of subdivision (a) of Section 5164 of the Public Resources Code.

(5) The tow truck driver certificate applicant's or holder's driving privilege has been suspended or revoked in accordance with any provisions of this code.

(b) For purposes of this section, a conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere. For purposes of this section, the record of a conviction, or a copy thereof certified by the clerk of the court or by a judge of the court in which the conviction occurred, is conclusive evidence of the conviction.

(c) Whenever the department receives information from the Department of Justice, or the Federal Bureau of Investigation, that a tow truck driver has been convicted of an offense specified in paragraph (1), (2), (3), or (4) of subdivision (a), the department shall immediately notify the employer and the Department of the California Highway Patrol.

(d) An applicant or holder of a tow truck driver certificate, whose certificate was denied or revoked, may reapply for a certificate whenever the applicable felony or misdemeanor conviction is reversed or dismissed. If the cause for the denial or revocation was based on the suspension or revocation of the applicant's or holder's driving privilege, he or she may reapply for a certificate upon restoration of his or her driving privilege. A termination of probation and dismissal of charges

pursuant to Section 1203.4 of the Penal Code or a dismissal of charges pursuant to Section 1203.4a of the Penal Code is not a dismissal for purposes of this section.

SEC. 7. The Legislature finds and declares that nothing in this act is intended to overrule the decisions, orders, or judgments in *Central Valley v. Younger* (1989) 214 Cal.App.3d 145, or the related case of *Gresher v. Deukmejian* (Alameda Superior Court No. 524298-6).

SEC. 8. Nothing in this act shall be construed as an implied amendment of subdivision (a) of Section 432.7 of the Labor Code that would lessen the protections provided by that section.

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:

To allow for proper criminal history information to be provided to appropriate requesters as necessary for public safety at the earliest possible time, it is necessary that this bill take effect immediately.

CHAPTER 185

An act to add Section 12528.1 to the Government Code, relating to Medi-Cal.

[Approved by Governor July 23, 2004. Filed with
Secretary of State July 23, 2004.]

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

SECTION 1. Section 12528.1 is added to the Government Code, to read:

12528.1. (a) Any agent, investigator, or auditor of the Bureau of Medi-Cal Fraud within the office of the Attorney General shall have the authority to inspect, at any time, the business location of any Medi-Cal provider for the purpose of carrying out the duties of the bureau as set forth in Section 12528. For purposes of this subdivision, "provider" includes an applicant as defined in Section 14043.1 of the Welfare and Institutions Code and a billing agent, as defined in Section 14040.1 of the Welfare and Institutions Code.

(b) The department shall provide all investigators and auditors assigned to lead a facility inspection team of a health facility licensed under Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code with basic training on the relevant statutes and regulations governing the types of facilities to be inspected. Unless it is

impracticable, the training shall include a facility tour, unrelated to an actual inspection, to observe the operations of the type of facilities to be inspected.

(c) The Bureau of Medi-Cal Fraud shall develop protocols to ensure that inspections conducted pursuant to this section are conducted during normal business hours and are completed in the least intrusive manner possible.

CHAPTER 186

An act to amend Section 129785 of the Health and Safety Code, relating to health facility construction, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 23, 2004. Filed with
Secretary of State July 23, 2004.]

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

SECTION 1. The Legislature intends and declares that any hospital facility or skilled nursing or intermediate care facility that chooses to apply for an annual permit for one or more projects, as described in this act, rather than submit the project or projects for review and approval as otherwise specified in the Alfred E. Alquist Hospital Facilities Seismic Safety Act of 1983 (Chapter 1 (commencing with Section 129675) of Division 107 of the Health and Safety Code), will realize a cost savings.

SEC. 2. Section 129785 of the Health and Safety Code is amended to read:

129785. (a) (1) The office shall determine an application filing fee that will cover the costs of administering this chapter. For a hospital facility, as defined in subdivision (a), (b), or (f) of Section 1250, the fee shall not exceed 2 percent of a project's estimated construction cost. For a skilled nursing or intermediate care facility, as defined in subdivision (c), (d), (e), or (g) of Section 1250, the fee shall not exceed 1.5 percent of a project's estimated construction cost. Application filing fees shall be established in accordance with applicable procedures established in Article 5 (commencing with Section 11346) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code.

(2) Notwithstanding paragraph (1), the minimum application filing fee in any case shall be two hundred fifty dollars (\$250).

(b) The office shall issue an annual permit upon submission of an application, pursuant to Section 129765, for one or more projects of a hospital facility, as defined in subdivision (a), (b), or (f) of Section 1250,

if the total estimated construction cost is fifty thousand dollars (\$50,000) or less per fiscal year. The fee for the annual permit shall be five hundred dollars (\$500) and shall be in lieu of an application filing fee. The annual permit shall cover all projects undertaken for a particular hospital facility up to a total estimated construction cost of fifty thousand dollars (\$50,000) during the state fiscal year in which the annual permit is issued. If a hospital facility chooses not to apply for an annual permit to cover a project or projects costing fifty thousand dollars (\$50,000) or less in total, the hospital facility may instead submit the project or projects for review and approval as otherwise specified in this chapter, including paying the application filing fee determined under subdivision (a).

(c) The office shall issue an annual permit upon submission of an application, pursuant to Section 129765, for one or more projects of a skilled nursing or intermediate care facility, as defined in subdivision (c), (d), (e), or (g) of Section 1250, if the total estimated construction cost is twenty-five thousand dollars (\$25,000) or less per fiscal year. The fee for the annual permit shall be two hundred fifty dollars (\$250) and shall be in lieu of an application filing fee. The annual permit shall cover all projects undertaken for a particular skilled nursing or intermediate care facility up to a total estimated construction cost of twenty-five thousand dollars (\$25,000) during the state fiscal year in which the annual permit is issued. If a skilled nursing or intermediate care facility chooses not to apply for an annual permit to cover a project or projects costing twenty-five thousand dollars (\$25,000) or less in total, the skilled nursing or intermediate care facility may instead submit the project or projects for review and approval as otherwise specified in this chapter, including paying the application filing fee determined under subdivision (a).

(d) If the actual construction cost exceeds the estimated construction cost by more than 5 percent, a further fee shall be paid to the office, based on the above schedule and computed on the amount that the actual cost exceeds the amount of the estimated cost. If the estimated construction cost exceeds the actual construction cost by more than 5 percent, the office shall refund the excess portion of any paid fees, based on the above schedule and computed on the amount that the estimated cost exceeds the amount of the actual cost. A refund is not required if the applicant did not complete construction or alteration of 75 percent of the square footage included in the project, as contained in the approved drawings and specifications for the project. In addition, the office shall adopt regulations specifying other circumstances when the office shall refund to an applicant all or part of any paid fees for projects submitted under this chapter. The regulations shall include, but not be limited to, refunds of paid fees for a project that is determined by the office to be exempt

or otherwise not reviewable under this chapter, and for a project that is withdrawn by the applicant prior to the commencement of review by the office of the drawing and specifications submitted for the project. All refunds pursuant to this section shall be paid from the Hospital Building Account in the Architecture Public Building Fund, as established pursuant to Section 129795.

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 ensure and enhance patient care and safety, it is necessary that small hospital construction projects be approved and completed quickly. Currently, the high number of hospital seismic safety projects submitted to the Office of Statewide Health Planning and Development for plan review and approval is delaying the review and approval of smaller projects and thus it is necessary that this act take effect immediately.

CHAPTER 187

An act to amend Sections 19205, 19261, 19322, 19342, 19348, 19349, 19350, 19354, and 19404 of, and to amend the heading of Article 7 (commencing with Section 19320) of Chapter 5 of Part 3 of Division 9 of, the Food and Agricultural Code, relating to animals.

[Approved by Governor July 23, 2004. Filed with
Secretary of State July 23, 2004.]

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

SECTION 1. Section 19205 of the Food and Agricultural Code is amended to read:

19205. "Dead animal hauler" means any person or company that engages in the business of transporting the carcasses of dead animals.

SEC. 2. Section 19261 of the Food and Agricultural Code is amended to read:

19261. The application for a license shall be in a form which is prescribed by the secretary and shall contain the following:

- (a) The name and address of the applicant.
- (b) Where each processing plant in which he intends to operate is located and to whom it belongs.
- (c) The experience the applicant has in processing.
- (d) What interest or control the applicant has in any dead animal hauler, rendering plant, or collection center.

(e) Any other information that the secretary may, by regulation, require.

SEC. 3. The heading of Article 7 (commencing with Section 19320) of Chapter 5 of Part 3 of Division 9 of the Food and Agricultural Code is amended to read:

Article 7. Dead Animal Haulers

SEC. 4. Section 19322 of the Food and Agricultural Code is amended to read:

19322. The secretary, after notice and hearing, may refuse to issue a license unless he finds that the applicant:

(a) Is properly equipped to engage in the business of dead animal hauling.

(b) Has never been convicted of a felony involving adulterated or misbranded food.

(c) Demonstrates character, responsibility, and good faith suitable for carrying on the business to be licensed.

SEC. 5. Section 19342 of the Food and Agricultural Code is amended to read:

19342. No slaughterer shall pick up or receive any dead animal at his slaughterhouse except those which have died en route and such animals shall be transported directly and without delay to a licensed rendering establishment, however apparently healthy animals transported by a person other than a dead animal hauler, found to have just expired on arrival due to injuries during transportation may be immediately slaughtered under conditions specified by the secretary which will conform to the purposes of this chapter.

SEC. 6. Section 19348 of the Food and Agricultural Code is amended to read:

19348. (a) Unless a waiver is granted by the State Veterinarian in conjunction with implementation of Section 9562, no dead animal hauler or any other person shall transport any dead animal to any place, other than to a licensed rendering plant, a licensed collection center, an animal disease diagnostic laboratory acceptable to the department, or the nearest crematory.

(b) Nothing in this section shall be interpreted to conflict with any state or federal environmental or zoning law, or to prohibit an owner of a live animal from burying the animal on the owner's property after the animal dies if the burial is within three miles of where the animal died.

SEC. 7. Section 19349 of the Food and Agricultural Code is amended to read:

19349. All trucks and every licensed premises of a dead animal hauler shall be inspected by the bureau at least once a year before the license is renewed and at other times as the secretary deems necessary.

SEC. 8. Section 19350 of the Food and Agricultural Code is amended to read:

19350. Vehicles used for dead animal hauling shall be completely unloaded, cleaned, and disinfected at the rendering plant.

SEC. 9. Section 19354 of the Food and Agricultural Code is amended to read:

19354. A dead animal hauler shall register each vehicle used to transport dead animals with the bureau.

SEC. 10. Section 19404 of the Food and Agricultural Code is amended to read:

19404. Every dead animal hauler shall keep a record when and where each carcass is picked up and delivered. The record shall be kept for a period of one year, and open to inspection by any agent of the department.

SEC. 11. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 188

An act to add Section 9560 to the Vehicle Code, relating to vehicles.

[Approved by Governor July 23, 2004. Filed with
Secretary of State July 23, 2004.]

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

SECTION 1. Section 9560 is added to the Vehicle Code, to read:

9560. (a) The department shall waive all penalties that may be due for late payment of registration renewal fees on a vehicle for any period during which the registered owner is deployed to a location outside of the state.

(b) (1) For the purposes of this section, “deployed” means being ordered to temporary military duty during a period when a Presidential

Executive order specifies that the United States is engaged in combat or homeland defense and the registered owner is one of the following:

- (A) A member of the armed forces.
 - (B) A member of the armed forces reserve or the National Guard who has been called to active duty or active service.
- (2) "Deployed" does not include either of the following:
- (A) Temporary duty for the sole purpose of training or processing.
 - (B) A permanent change of station.
- (c) This section does not apply to a registered owner who applies for registration renewal more than 60 days after termination of his or her deployment.

CHAPTER 189

An act to amend Section 63040 of the Government Code, relating to economic development.

[Approved by Governor July 23, 2004. Filed with
Secretary of State July 23, 2004.]

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

SECTION 1. Section 63040 of the Government Code is amended to read:

63040. (a) Following consultation with appropriate state and local agencies, the bank shall establish criteria, priorities, and guidelines for the selection of projects to receive assistance from the bank. Projects shall comply with the criteria, priorities, and guidelines adopted by the bank.

(b) The criteria, priorities, and guidelines shall, at a minimum, be based upon the following:

(1) The State Environmental Goals and Policy Report, or its successor, approved pursuant to Article 5 (commencing with Section 65041) of Chapter 1.5 of Division 1 of Title 7.

(2) If the sponsor is a state agency, board, commission, or department, the Capital and Infrastructure Project Planning Report, prepared by the Director of Finance pursuant to Article 2 (commencing with Section 13100) of Chapter 2 of Part 3 of Division 3 of Title 2.

(c) When the bank establishes or makes changes to the criteria, priorities, and guidelines, the bank shall notify the Governor, the fiscal and policy committees of the Legislature that exercise legislative oversight of the bank, and appropriate state and local agencies.

(d) The resolution required in Section 63041 shall have been adopted prior to the project's selection by the bank.

CHAPTER 190

An act to amend Section 20536 of the Government Code, relating to public employees' retirement.

[Approved by Governor July 23, 2004. Filed with
Secretary of State July 23, 2004.]

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

SECTION 1. Section 20536 of the Government Code is amended to read:

20536. (a) The board may include each year in the contribution required of the contracting agency a reasonable amount, which may differ from agency to agency, to cover the costs of administering this system as it affects the active and retired employees of that agency. The board may also assess a contracting agency a reasonable amount to cover costs incurred because of the agency's failure to submit reports and forward contributions on a timely basis. The payments shall be credited to the current appropriation for support of the board and available for expenditure by the board.

(b) Upon request, the board shall provide information to a contracting agency concerning the amount of administrative costs to be charged to each contracting agency with respect to those plans within the system in which the contracting agency participates.

CHAPTER 191

An act to amend Sections 4040, 4052, 4060, 4076, and 4111 of the Business and Professions Code, and to amend Section 11150 of the Health and Safety Code, relating to pharmaceuticals.

[Approved by Governor July 23, 2004. Filed with
Secretary of State July 23, 2004.]

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

SECTION 1. Section 4040 of the Business and Professions Code is amended to read:

4040. (a) "Prescription" means an oral, written, or electronic transmission order that is both of the following:

(1) Given individually for the person or persons for whom ordered that includes all of the following:

(A) The name or names and address of the patient or patients.

(B) The name and quantity of the drug or device prescribed and the directions for use.

(C) The date of issue.

(D) Either rubber stamped, typed, or printed by hand or typeset, the name, address, and telephone number of the prescriber, his or her license classification, and his or her federal registry number, if a controlled substance is prescribed.

(E) A legible, clear notice of the condition for which the drug is being prescribed, if requested by the patient or patients.

(F) If in writing, signed by the prescriber issuing the order, or the certified nurse-midwife, nurse practitioner, or physician assistant who issues a drug order pursuant to Section 2746.51, 2836.1, or 3502.1, respectively, or the pharmacist who issues a drug order pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052.

(2) Issued by a physician, dentist, optometrist, podiatrist, or veterinarian or, if a drug order is issued pursuant to Section 2746.51, 2836.1, or 3502.1, by a certified nurse-midwife, nurse practitioner, or physician assistant licensed in this state, or pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052 by a pharmacist licensed in this state.

(b) Notwithstanding subdivision (a), a written order of the prescriber for a dangerous drug, except for any Schedule II controlled substance, that contains at least the name and signature of the prescriber, the name and address of the patient in a manner consistent with paragraph (3) of subdivision (b) of Section 11164 of the Health and Safety Code, the name and quantity of the drug prescribed, directions for use, and the date of issue may be treated as a prescription by the dispensing pharmacist as long as any additional information required by subdivision (a) is readily retrievable in the pharmacy. In the event of a conflict between this subdivision and Section 11164 of the Health and Safety Code, Section 11164 of the Health and Safety Code shall prevail.

(c) "Electronic transmission prescription" includes both image and data prescriptions. "Electronic image transmission prescription" means any prescription order for which a facsimile of the order is received by a pharmacy from a licensed prescriber. "Electronic data transmission prescription" means any prescription order, other than an electronic

image transmission prescription, that is electronically transmitted from a licensed prescriber to a pharmacy.

(d) The use of commonly used abbreviations shall not invalidate an otherwise valid prescription.

(e) Nothing in the amendments made to this section (formerly Section 4036) at the 1969 Regular Session of the Legislature shall be construed as expanding or limiting the right that a chiropractor, while acting within the scope of his or her license, may have to prescribe a device.

SEC. 2. Section 4052 of the Business and Professions Code is amended to read:

4052. (a) Notwithstanding any other provision of law, a pharmacist may:

(1) Furnish a reasonable quantity of compounded medication to a prescriber for office use by the prescriber.

(2) Transmit a valid prescription to another pharmacist.

(3) Administer, orally or topically, drugs and biologicals pursuant to a prescriber's order.

(4) Perform the following procedures or functions in a licensed health care facility in accordance with policies, procedures, or protocols developed by health professionals, including physicians, pharmacists, and registered nurses, with the concurrence of the facility administrator:

(A) Ordering or performing routine drug therapy-related patient assessment procedures including temperature, pulse, and respiration.

(B) Ordering drug therapy-related laboratory tests.

(C) Administering drugs and biologicals by injection pursuant to a prescriber's order (the administration of immunizations under the supervision of a prescriber may also be performed outside of a licensed health care facility).

(D) Initiating or adjusting the drug regimen of a patient pursuant to an order or authorization made by the patient's prescriber and in accordance with the policies, procedures, or protocols of the licensed health care facility.

(5) (A) Perform the following procedures or functions as part of the care provided by a health care facility, a licensed home health agency, a licensed clinic in which there is a physician oversight, a provider who contracts with a licensed health care service plan with regard to the care or services provided to the enrollees of that health care service plan, or a physician, in accordance, as applicable, with policies, procedures, or protocols of that facility, the home health agency, the licensed clinic, the health care service plan, or that physician, in accordance with subparagraph (C):

(i) Ordering or performing routine drug therapy-related patient assessment procedures including temperature, pulse, and respiration.

(ii) Ordering drug therapy-related laboratory tests.

(iii) Administering drugs and biologicals by injection pursuant to a prescriber's order (the administration of immunizations under the supervision of a prescriber may also be performed outside of a licensed health care facility).

(iv) Initiating or adjusting the drug regimen of a patient pursuant to a specific written order or authorization made by the individual patient's treating prescriber, and in accordance with the policies, procedures, or protocols of the health care facility, home health agency, licensed clinic, health care service plan, or physician. Adjusting the drug regimen does not include substituting or selecting a different drug, except as authorized by the protocol. The pharmacist shall provide written notification to the patient's treating prescriber, or enter the appropriate information in an electronic patient record system shared by the prescriber, of any drug regimen initiated pursuant to this clause within 24 hours.

(B) A patient's treating prescriber may prohibit, by written instruction, any adjustment or change in the patient's drug regimen by the pharmacist.

(C) The policies, procedures, or protocols referred to in this paragraph shall be developed by health care professionals, including physicians, pharmacists, and registered nurses, and, at a minimum, meet all of the following requirements:

(i) Require that the pharmacist function as part of a multidisciplinary group that includes physicians and direct care registered nurses. The multidisciplinary group shall determine the appropriate participation of the pharmacist and the direct care registered nurse.

(ii) Require that the medical records of the patient be available to both the patient's treating prescriber and the pharmacist.

(iii) Require that the procedures to be performed by the pharmacist relate to a condition for which the patient has first been seen by a physician.

(iv) Except for procedures or functions provided by a health care facility, a licensed clinic in which there is physician oversight, or a provider who contracts with a licensed health care plan with regard to the care or services provided to the enrollees of that health care service plan, require the procedures to be performed in accordance with a written, patient-specific protocol approved by the treating or supervising physician. Any change, adjustment, or modification of an approved preexisting treatment or drug therapy shall be provided in writing to the treating or supervising physician within 24 hours.

(6) Manufacture, measure, fit to the patient, or sell and repair dangerous devices or furnish instructions to the patient or the patient's representative concerning the use of those devices.

(7) Provide consultation to patients and professional information, including clinical or pharmacological information, advice, or consultation to other health care professionals.

(8) (A) Furnish emergency contraception drug therapy in accordance with either of the following:

(i) Standardized procedures or protocols developed by the pharmacist and an authorized prescriber who is acting within his or her scope of practice.

(ii) Standardized procedures or protocols developed and approved by both the board and the Medical Board of California in consultation with the American College of Obstetricians and Gynecologists, the California Pharmacist Association, and other appropriate entities. Both the board and the Medical Board of California shall have authority to ensure compliance with this clause, and both boards are specifically charged with the enforcement of this provision with respect to their respective licensees. Nothing in this clause shall be construed to expand the authority of a pharmacist to prescribe any prescription medication.

(B) Prior to performing a procedure authorized under this paragraph, a pharmacist shall complete a training program on emergency contraception that consists of at least one hour of approved continuing education on emergency contraception drug therapy.

(C) A pharmacist, pharmacist's employer, or pharmacist's agent may not directly charge a patient separate consultation fee for emergency contraception drug therapy services initiated pursuant to this paragraph, but may charge an administrative fee not to exceed ten dollars (\$10) above the retail cost of the drug. Upon an oral, telephonic, electronic, or written request from a patient or customer, a pharmacist or pharmacist's employee shall disclose the total retail price that a consumer would pay for emergency contraception drug therapy. As used in this subparagraph, total retail price includes providing the consumer with specific information regarding the price of the emergency contraception drugs and the price of the administrative fee charged. This limitation is not intended to interfere with other contractually agreed-upon terms between a pharmacist, a pharmacist's employer, or a pharmacist's agent, and a health care service plan or insurer. Patients who are insured or covered and receive a pharmacy benefit that covers the cost of emergency contraception shall not be required to pay an administrative fee. These patients shall be required to pay copayments pursuant to the terms and conditions of their coverage. The provisions of this subparagraph shall cease to be operative for dedicated emergency contraception drugs when these drugs are reclassified as over-the-counter products by the federal Food and Drug Administration.

(D) A pharmacist may not require a patient to provide individually identifiable medical information that is not specified in Section 1707.1

of Title 16 of the California Code of Regulations before initiating emergency contraception drug therapy pursuant to this paragraph.

(b) (1) Prior to performing any procedure authorized by paragraph (4) of subdivision (a), a pharmacist shall have received appropriate training as prescribed in the policies and procedures of the licensed health care facility.

(2) Prior to performing any procedure authorized by paragraph (5) of subdivision (a), a pharmacist shall have either (A) successfully completed clinical residency training or (B) demonstrated clinical experience in direct patient care delivery.

(3) For each emergency contraception drug therapy initiated pursuant to paragraph (8) of subdivision (a), the pharmacist shall provide the recipient of the emergency contraception drugs with a standardized factsheet that includes, but is not limited to, the indications for use of the drug, the appropriate method for using the drug, the need for medical followup, and other appropriate information. The board shall develop this form in consultation with the State Department of Health Services, the American College of Obstetricians and Gynecologists, the California Pharmacists Association, and other health care organizations. The provisions of this section do not preclude the use of existing publications developed by nationally recognized medical organizations.

(c) A pharmacist who is authorized to issue an order to initiate or adjust a controlled substance therapy pursuant to this section shall personally register with the federal Drug Enforcement Administration.

(d) Nothing in this section shall affect the requirements of existing law relating to maintaining the confidentiality of medical records.

(e) Nothing in this section shall affect the requirements of existing law relating to the licensing of a health care facility.

SEC. 3. Section 4060 of the Business and Professions Code is amended to read:

4060. No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, or veterinarian, or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, a physician assistant pursuant to Section 3502.1, or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, certified nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly labeled with the name and address of the supplier or producer.

Nothing in this section authorizes a certified nurse-midwife, a nurse practitioner, or a physician assistant to order his or her own stock of dangerous drugs and devices.

SEC. 4. Section 4076 of the Business and Professions Code is amended to read:

4076. (a) A pharmacist shall not dispense any prescription except in a container that meets the requirements of state and federal law and is correctly labeled with all of the following:

(1) Except where the prescriber or the certified nurse-midwife who functions pursuant to a standardized procedure or protocol described in Section 2746.51, the nurse practitioner who functions pursuant to a standardized procedure described in Section 2836.1, or protocol, the physician assistant who functions pursuant to Section 3502.1, or the pharmacist who functions pursuant to a policy, procedure, or protocol pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052 orders otherwise, either the manufacturer's trade name of the drug or the generic name and the name of the manufacturer. Commonly used abbreviations may be used. Preparations containing two or more active ingredients may be identified by the manufacturer's trade name or the commonly used name or the principal active ingredients.

(2) The directions for the use of the drug.

(3) The name of the patient or patients.

(4) The name of the prescriber or, if applicable, the name of the certified nurse-midwife who functions pursuant to a standardized procedure or protocol described in Section 2746.51, the nurse practitioner who functions pursuant to a standardized procedure described in Section 2836.1, or protocol, the physician assistant who functions pursuant to Section 3502.1, or the pharmacist who functions pursuant to a policy, procedure, or protocol pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052.

(5) The date of issue.

(6) The name and address of the pharmacy, and prescription number or other means of identifying the prescription.

(7) The strength of the drug or drugs dispensed.

(8) The quantity of the drug or drugs dispensed.

(9) The expiration date of the effectiveness of the drug dispensed.

(10) The condition for which the drug was prescribed if requested by the patient and the condition is indicated on the prescription.

(11) (A) Commencing January 1, 2006, the physical description of the dispensed medication, including its color, shape, and any identification code that appears on the tablets or capsules, except as follows:

(i) Prescriptions dispensed by a veterinarian.

(ii) An exemption from the requirements of this paragraph shall be granted to a new drug for the first 120 days that the drug is on the market and for the 90 days during which the national reference file has no description on file.

(iii) Dispensed medications for which no physical description exists in any commercially available database.

(B) This paragraph applies to outpatient pharmacies only.

(C) The information required by this paragraph may be printed on an auxiliary label that is affixed to the prescription container.

(D) This paragraph shall not become operative if the board, prior to January 1, 2006, adopts regulations that mandate the same labeling requirements set forth in this paragraph.

(b) If a pharmacist dispenses a prescribed drug by means of a unit dose medication system, as defined by administrative regulation, for a patient in a skilled nursing, intermediate care, or other health care facility, the requirements of this section will be satisfied if the unit dose medication system contains the aforementioned information or the information is otherwise readily available at the time of drug administration.

(c) If a pharmacist dispenses a dangerous drug or device in a facility licensed pursuant to Section 1250 of the Health and Safety Code, it is not necessary to include on individual unit dose containers for a specific patient, the name of the certified nurse-midwife who functions pursuant to a standardized procedure or protocol described in Section 2746.51, the nurse practitioner who functions pursuant to a standardized procedure described in Section 2836.1, or protocol, the physician assistant who functions pursuant to Section 3502.1, or the pharmacist who functions pursuant to a policy, procedure, or protocol pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052.

(d) If a pharmacist dispenses a prescription drug for use in a facility licensed pursuant to Section 1250 of the Health and Safety Code, it is not necessary to include the information required in paragraph (11) of subdivision (a) when the prescription drug is administered to a patient by a person licensed under the Medical Practice Act (Chapter 5 (commencing with Section 2000)), the Nursing Practice Act (Chapter 6 (commencing with Section 2700)), or the Vocational Nursing Practice Act (Chapter 6.5 (commencing with Section 2840)), who is acting within his or her scope of practice.

SEC. 5. Section 4111 of the Business and Professions Code is amended to read:

4111. (a) Except as otherwise provided in subdivision (b), (d), or (e), the board shall not issue or renew a license to conduct a pharmacy to any of the following:

(1) A person or persons authorized to prescribe or write a prescription, as specified in Section 4040, in the State of California.

(2) A person or persons with whom a person or persons specified in paragraph (1) shares a community or other financial interest in the permit sought.

(3) Any corporation that is controlled by, or in which 10 percent or more of the stock is owned by a person or persons prohibited from pharmacy ownership by paragraph (1) or (2).

(b) Subdivision (a) shall not preclude the issuance of a permit for an inpatient hospital pharmacy to the owner of the hospital in which it is located.

(c) The board may require any information the board deems is reasonably necessary for the enforcement of this section.

(d) Subdivision (a) shall not preclude the issuance of a new or renewal license for a pharmacy to be owned or owned and operated by a person licensed on or before August 1, 1981, under the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code) and qualified on or before August 1, 1981, under subsection (d) of Section 1310 of Title XIII of the federal Public Health Service Act, as amended, whose ownership includes persons defined pursuant to paragraphs (1) and (2) of subdivision (a).

(e) Subdivision (a) shall not preclude the issuance of a new or renewal license for a pharmacy to be owned or owned and operated by a pharmacist authorized to issue a drug order pursuant to subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052.

SEC. 6. Section 11150 of the Health and Safety Code is amended to read:

11150. No person other than a physician, dentist, podiatrist, or veterinarian, or pharmacist acting within the scope of a project authorized under Article 1 (commencing with Section 128125) of Chapter 3 of Part 3 of Division 107 or within the scope of either subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052 of the Business and Professions Code, a registered nurse acting within the scope of a project authorized under Article 1 (commencing with Section 128125) of Chapter 3 of Part 3 of Division 107, a certified nurse-midwife acting within the scope of Section 2746.51 of the Business and Professions Code, a nurse practitioner acting within the scope of Section 2836.1 of the Business and Professions Code, a physician assistant acting within

the scope of a project authorized under Article 1 (commencing with Section 128125) of Chapter 3 of Part 3 of Division 107 or Section 3502.1 of the Business and Professions Code, or an optometrist acting within the scope of Section 3041 of the Business and Professions Code, or an out-of-state prescriber acting pursuant to Section 4005 of the Business and Professions Code shall write or issue a prescription.

SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 192

An act to amend Section 129805 of the Health and Safety Code, relating to health facilities.

[Approved by Governor July 23, 2004. Filed with
Secretary of State July 23, 2004.]

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

SECTION 1. Section 129805 of the Health and Safety Code is amended to read:

129805. (a) All plans and specifications shall be prepared under the responsible charge of an architect or a structural engineer, or both. A structural engineer shall prepare the structural design and shall sign plans and specifications related thereto. Administration of the work of construction shall be under the responsible charge of the architect and structural engineer, except that where plans and specifications for alterations or repairs do not affect architectural or structural conditions, the plans and specifications may be prepared under the responsible charge of, and work of construction may be administered by, a professional engineer duly qualified to perform the services and holding a valid certificate under Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code for performance of services in that branch of engineering in which the plans, specifications, and estimates and work of construction are applicable.

(b) The office may exempt projects from the requirements of subdivision (a) where the plans and specifications are not ordinarily, in

the standard practice of architecture and engineering, prepared by licensed architects or registered engineers, or both, and are not a component of a project prepared under the responsible charge of a licensed architect or registered engineer, or both. To implement this authority, the office shall adopt regulations, consistent with this section, that specify which projects may be exempted from the requirements of subdivision (a).

CHAPTER 193

An act to amend Sections 29, 4866, 6095, and 6140.2 of, and to repeal Sections 2873.7, 6086.12, 9889.60, 9889.62, and 9889.64 of, the Business and Professions Code, to repeal Chapter 3 (commencing with Section 1812.40) of Title 2 of Part 4 of Division 3 of the Civil Code, to amend Section 529.1 of the Code of Civil Procedure, to amend Sections 62000, 71027, 71051, 89343, and 92640 of the Education Code, to amend Section 3200 of, and to repeal Sections 20025 and 20042 of, the Family Code, to amend Section 15702 of, and to repeal Sections 715, 15602, and 15603 of, the Fish and Game Code, to amend Sections 5029, 13127, and 58509 of, and to repeal Sections 13124, 13125, and 42814 of, the Food and Agricultural Code, to amend Sections 6276.12, 6276.30, 6276.46, 8293, 8588.5, 8875.1, 9121, 11011.15, 12092, 12173, 14036.6, 15814.25, 16272.5, and 51015.05 of, to repeal Sections 8593.3, 8599.1, 8870.75, 8877.7, 9116, 11011.19, 14525.6, 16272.3, 16367.9, 19995.35, 19998.5, 30605, 51015.1, 53117, 68106, 68511.4, and 68515 of, to repeal Article 6.5 (commencing with Section 53125) of Chapter 1 of Part 1 of Division 2 of Title 5 of, to repeal Chapter 5 (commencing with Section 16285) of Part 1.5 of Division 4 of Title 2 of, and to repeal Part 14 (commencing with Section 16000) of Division 3 of Title 2 of, the Government Code, to amend Sections 1179.2, 1275.3, 1522.4, 1596.955, 6982, 11758.10, 11772, 11798.1, 11831.5, 11998.2, 16109, 25159.19, 25503.2, 40410.5, 40452, 43013.5, 50519, 50524, 105140, 105175, 110795, 114820, 116360, 124150, 124160, 124195, 127360, 128195, and 129295 of, to repeal Sections 1205.1, 1519, 1520.65, 1522.6, 1527.9, 1529.3, 1557, 1569.545, 1597.01, 1598.3, 11756.5, 11757.62, 11758.33, 11782, 11963.5, 13143.7, 18944.34, 25159.13, 25244.3, 25299.80, 25928, 38045, 39663, 44245, 44247, 50837, 101535, 104595, 105335, 108865, 110540, 120865, 124135, 124140, 124145, 124235, and 127365 of, to repeal Article 5 (commencing with Section 25547) of Chapter 6.95 of Division 20 of, to repeal Article 5 (commencing with Section 100475) of Chapter 3 of Part 1 of Division 101 of, to repeal Chapter 3.5 (commencing with Section

11758.50) of Part 1 of Division 10.5 of, and to repeal Chapter 5 (commencing with Section 11759.10) of Part 1 of Division 10.5 of, the Health and Safety Code, to repeal Sections 11751.51, 12693.94, and 12696.25 of the Insurance Code, to amend Section 139.43 of, and to repeal Section 6715 of, the Labor Code, to repeal Section 1012.5 of the Military and Veterans Code, to amend Sections 653.1, 1247k, 2053, 3053.2, 5010, 5066, 7514, 13508, and 14210 of, and to repeal Sections 1174.6, 3424, 4497.40, 7009, 11108.7, 11110, 13013, 13828.2, and 13871 of, the Penal Code, to amend Sections 612.5, 4562.5, 42553, and 71064 of, and to repeal Sections 2802, 2804.6, 3488, 4473, 4563.5, 6226, 18017, 25689, 29777, 42552, and 42776 of, the Public Resources Code, to amend Sections 322, 701.6, 5371.4, 5385.6, and 99620 of, to repeal Sections 5388, 8303, and 99621 of, and to repeal Article 4 (commencing with Section 442) of Chapter 2.5 of Part 1 of Division 1 of, the Public Utilities Code, to amend Sections 18405, 19264, and 23331 of, and to repeal Sections 2237.3 and 2327 of, the Revenue and Taxation Code, to repeal Section 155.8 of the Streets and Highways Code, to amend Section 11011 of, and to repeal Sections 1598 and 11005 of, the Unemployment Insurance Code, to amend Sections 4750.4, 5011.5, 14112, 40001, and 42007 of, and to repeal Sections 2575, 4750.2, 21370.1, 32005, and 34508.5 of, the Vehicle Code, to repeal Sections 1061, 12226.1, and 12228 of the Water Code, and to amend Sections 503, 1120, 4390, 4689.1, 5719.5, 11008, 11008.19, 11213, 11215, 11469, 11476.6, 14005.6, 14026.5, 14041.5, 14087.2, 14104.6, 14105.15, 14499.5, and 16576 of, and to repeal Sections 225.05, 398, 898.5, 1756.1, 1906, 1914, 4026, 4506, 4519.5, 4637, 4681.2, 4692, 4751, 4838, 4840, 4842, 5734, 5914, 10627, 11004.5, 11406, 12312, 14090, 14090.1, 14090.2, 14090.3, 14195.8, 14492, 16501.6, 18379, 18989.3, and 19856 of, the Welfare and Institutions Code, relating to state reports.

[Approved by Governor July 23, 2004. Filed with
Secretary of State July 23, 2004.]

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

SECTION 1. Section 29 of the Business and Professions Code is amended to read:

29. (a) The Board of Psychology and the Board of Behavioral Sciences shall consider adoption of continuing education requirements including training in the area of recognizing chemical dependency and early intervention for all persons applying for renewal of a license as a psychologist, clinical social worker, or marriage and family therapist.

(b) Prior to the adoption of any regulations imposing continuing education relating to alcohol and other chemical dependency, the board

and committee are urged to consider coursework to include, but not necessarily be limited to, the following topics:

(1) Historical and contemporary perspectives on alcohol and other drug abuse.

(2) Extent of the alcohol and drug abuse epidemic and its effects on the individual, family, and community.

(3) Recognizing the symptoms of alcoholism and drug addiction.

(4) Making appropriate interpretations, interventions, and referrals.

(5) Recognizing and intervening with affected family members.

(6) Learning about current programs of recovery, such as 12 step programs, and how therapists can effectively utilize these programs.

SEC. 2. Section 2873.7 of the Business and Professions Code is repealed.

SEC. 3. Section 4866 of the Business and Professions Code is amended to read:

4866. (a) The board shall establish criteria for the acceptance, denial, or termination of veterinarians and animal health technicians in a diversion program. Only those veterinarians and animal health technicians who have voluntarily requested diversion treatment and supervision by a diversion evaluation committee shall participate in a program.

(b) The board shall establish criteria for the selection of administrative physicians who shall examine veterinarians and animal health technicians requesting diversion under a program. Any reports made under this article by the administrative physician shall constitute an exception to Sections 994 and 995 of the Evidence Code.

(c) The diversion program may accept no more than 100 participants who are licensees of the board.

SEC. 4. Section 6086.12 of the Business and Professions Code is repealed.

SEC. 5. Section 6095 of the Business and Professions Code is amended to read:

6095. (a) The disciplinary agency shall annually hold at least two public hearings, one in southern California and one in northern California, to hear proposals on bar disciplinary procedures, attorney competency, and admissions procedures.

(b) To the extent the information is known to the disciplinary agency, it shall report annually to the Assembly and Senate Judiciary Committees concerning the judicial or disciplinary disposition of all criminal or disciplinary proceedings involving the allegation of the commission of a felony by an attorney.

SEC. 6. Section 6140.2 of the Business and Professions Code is amended to read:

6140.2. The State Bar shall set as a goal the improvement of its disciplinary system so that no more than six months will elapse from the receipt of complaints to the time of dismissal, admonishment of the attorney involved, or the filing of formal charges by the State Bar Office of Trial Counsel.

SEC. 7. Section 9889.60 of the Business and Professions Code is repealed.

SEC. 8. Section 9889.62 of the Business and Professions Code is repealed.

SEC. 9. Section 9889.64 of the Business and Professions Code is repealed.

SEC. 10. Chapter 3 (commencing with Section 1812.40) of Title 2 of Part 4 of Division 3 of the Civil Code is repealed.

SEC. 11. Section 529.1 of the Code of Civil Procedure is amended to read:

529.1. (a) In all actions in which the court has granted an injunction sought by any plaintiff to enjoin a construction project which has received all legally required licenses and permits, the defendant may apply to the court by noticed motion for an order requiring the plaintiff to furnish an undertaking as security for costs and any damages that may be incurred by the defendant by the conclusion of the action or proceeding as the result of a delay in the construction of the project. The motion shall be made on the grounds that there is no reasonable possibility that the plaintiff will obtain a judgment against the moving defendant and that the plaintiff will not suffer undue economic hardship by filing the undertaking.

(b) If the court, after hearing, determines that the grounds for the motion have been established, the court shall order that the plaintiff file the undertaking in an amount specified in the court's order as security for costs and damages of the defendant. The liability of the plaintiff pursuant to this section for the costs and damages of the defendant shall not exceed five hundred thousand dollars (\$500,000).

(c) As used in this section, a construction project includes, but is not restricted to, the construction, surveying, design, specifications, alteration, repair, improvement, maintenance, removal, or demolition of any building, highway, road, parking facility, bridge, railroad, airport, pier or dock, excavation or other structure, development or other improvement to real or personal property.

SEC. 12. Section 62000 of the Education Code is amended to read:

62000. "Sunset" and "sunset date," as used in this part, mean the date on which specific categorical programs cease to be operative and Sections 62002, 62003, 62004, 62005, and 62005.5 govern program funding.

The educational programs referred to in this part shall cease to be operative on the date specified, unless the Legislature enacts legislation to continue the program.

SEC. 13. Section 71027 of the Education Code is amended to read:

71027. (a) The Board of Governors of the California Community Colleges shall develop, maintain, and disseminate a general common course numbering system for use by the community college districts.

(b) The office of the Chancellor of the California Community Colleges shall absorb the costs of developing, maintaining, and disseminating a general common course numbering system pursuant to this section within the office's existing resources.

SEC. 14. Section 71051 of the Education Code is amended to read:

71051. (a) The board of governors shall develop a process for the approval and funding of new collaborative facilities projects that are proposed by community college districts.

(b) The board of governors shall not implement subdivision (a) without statutory authorization.

SEC. 15. Section 89343 of the Education Code is amended to read:

89343. The Trustees of the California State University and Board of Governors of the California Community Colleges shall evaluate the extent to which their current programs are meeting the needs of foster youth and how those outreach and retention services can be improved.

SEC. 16. Section 92640 of the Education Code is amended to read:

92640. The Regents of the University of California shall develop policies and procedures to ensure that each campus of the university, in administering any test or examination, permits any student who is eligible to undergo the test or examination to do so, without penalty, at a time when that activity would not violate the student's religious creed. This requirement shall not apply in the event that administering the test or examination at an alternate time would impose an undue hardship that could not reasonably have been avoided. In any court proceeding in which the existence of an undue hardship that could not reasonably have been avoided is an issue, the burden of proof shall be upon the institution.

SEC. 17. Section 3200 of the Family Code is amended to read:

3200. The Judicial Council shall develop standards for supervised visitation providers in accordance with the guidelines set forth in this section. For the purposes of the development of these standards, the term "provider" shall include any individual who functions as a visitation monitor, as well as supervised visitation centers. Provisions shall be made within the standards to allow for the diversity of supervised visitation providers.

(a) When developing standards, the Judicial Council shall consider all of the following issues:

(1) The provider's qualifications, experience, and education.

(2) Safety and security procedures, including ratios of children per supervisor.

(3) Any conflict of interest.

(4) Maintenance and disclosure of records, including confidentiality policies.

(5) Procedures for screening, delineation of terms and conditions, and termination of supervised visitation services.

(6) Procedures for emergency or extenuating situations.

(7) Orientation to and guidelines for cases in which there are allegations of domestic violence, child abuse, substance abuse, or special circumstances.

(8) The legal obligations and responsibilities of supervisors.

(b) The Judicial Council shall consult with visitation centers, mothers' groups, fathers' groups, judges, the State Bar of California, children's advocacy groups, domestic violence prevention groups, Family Court Services, and other groups it regards as necessary in connection with these standards.

(c) It is the intent of the Legislature that the safety of children, adults, and visitation supervisors be a precondition to providing visitation services. Once safety is assured, the best interest of the child is the paramount consideration at all stages and particularly in deciding the manner in which supervision is provided.

SEC. 18. Section 20025 of the Family Code is repealed.

SEC. 19. Section 20042 of the Family Code is repealed.

SEC. 20. Section 715 of the Fish and Game Code is repealed.

SEC. 21. Section 15602 of the Fish and Game Code is repealed.

SEC. 22. Section 15603 of the Fish and Game Code is repealed.

SEC. 23. Section 15702 of the Fish and Game Code is amended to read:

15702. (a) The committee shall be advisory to the director on all matters pertaining to aquaculture and shall coordinate activities among public entities.

(b) The committee shall assist the director in developing and implementing a state aquaculture plan, identify the opportunities for regulatory relief, assist in development of research and development priorities, assist in the development of criteria to assure that publicly financed pilot programs are compatible with industry needs, and identify other opportunities for industrial development.

SEC. 24. Section 5029 of the Food and Agricultural Code is amended to read:

5029. (a) The department, in consultation with the State Department of Health Services, shall design and implement a program to provide information to persons who reside in areas scheduled to be

treated with pesticides on an emergency basis in order to eradicate plant pests.

(b) The purpose of this program is to provide information about the health effects of the pesticides used in eradication projects. The program shall be designed to provide the greatest amount of information practicable to affected citizens. The department shall conduct outreach efforts to inform the public about the existence of this program.

SEC. 25. Section 13124 of the Food and Agricultural Code is repealed.

SEC. 26. Section 13125 of the Food and Agricultural Code is repealed.

SEC. 27. Section 13127 of the Food and Agricultural Code is amended to read:

13127. (a) Not later than December 31, 1985, the department shall identify 200 pesticide active ingredients which the department determines have the most significant data gaps and widespread use and which are suspected to be hazardous to people. Not later than 30 days after the report issued pursuant to former Section 13125, as added by Chapter 669 of the Statutes of 1984, the department shall notify each registrant of a pesticide product containing any of the identified 200 pesticide active ingredients of the applicable data gap required to be filled pursuant to this section.

(b) Not later than December 31, 1985, the department shall also adopt a timetable for the filling of all data gaps on all pesticide active ingredients, other than those identified by the department pursuant to subdivision (a), which are currently registered or licensed in California. The department shall notify registrants of the applicable data gaps and the scheduled time to initiate and complete studies as provided in the timetable.

(c) (1) Not later than September 1, 1986, the department shall determine whether a test has been initiated to fill each of the data gaps for each pesticide active ingredient identified in subdivision (a). If no test has been initiated, the department shall fill data gaps in accordance with procedures provided in subparagraph (B) of paragraph (2) of subsection (c) of Section 136a of Title 7 of the United States Code. In order to carry out this section, the director has the same authority to require information from registrants of active pesticide ingredients and to suspend registration that the Administrator of the Environmental Protection Agency has pursuant to subparagraph (B) of paragraph (2) of subsection (c) of Section 136a of Title 7 of the United States Code. If a hearing is requested regarding the proposed suspension of registration, it shall be conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. On or before July 1, 1986, the director shall, by regulation, prescribe

procedures for resolving disputes or funding the filling of data gaps. The procedures may include mediation and arbitration. The arbitration procedures, insofar as practical, shall be consistent with the federal act, or otherwise shall be in accordance with the commercial arbitration rules established by the American Arbitration Association. The procedures shall be established so as to resolve any dispute within the timetable established in subdivision (a).

(2) The department shall also obtain the data which is identified in subdivision (b), according to the timetable and procedures specified in this section.

(d) The director shall review the timetable established by the Environmental Protection Agency for the accelerated registration program under amendments effective in 1989 to the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec. 136 et seq.).

(e) (1) This section does not apply to any product which the director determines has limited use or that substantial economic hardship would result to users due to unavailability of the product and there is not significant exposure to the public or workers and the product is otherwise in compliance with federal law.

(2) The director may not, pursuant to this subdivision, exempt all pesticide products containing the same pesticide active ingredient unless it is determined that the pesticide active ingredient has only limited use, there is insignificant exposure to workers or the public, and the products are otherwise in compliance with federal law. Any exemption issued pursuant to this paragraph shall expire at the end of three years after it is issued.

(f) (1) Whenever the director exercises the authority provided in paragraph (1) of subdivision (e), he or she shall give public notice of the action stating the reasons for exempting the pesticide product from the data requirements of this article. Copies of this notice shall be provided to the appropriate policy committees of the Legislature.

(2) Whenever the director acts pursuant to paragraph (2) of subdivision (e), the director shall furnish not less than 30 days' public notice of the proposed action, stating the reasons for exempting the pesticide product from the data requirements of this article and allowing public comment thereon. Copies of the notice and the final decision shall be provided to the appropriate policy committees of the Legislature.

SEC. 28. Section 42814 of the Food and Agricultural Code is repealed.

SEC. 29. Section 58509 of the Food and Agricultural Code is amended to read:

58509. (a) The Secretary of the State and Consumer Services Agency shall consult with four food bank representatives, two from the northern portion of the state, all of whom have been active members of

a nationwide network of food banks for a minimum of two years immediately prior to appointment, and two from the southern portion of the state, all of whom have been active members of a nationwide network of food banks for a minimum of two years immediately prior to appointment, and two food industry representatives, one wholesaler and one manufacturer, all of whom shall be selected by the Governor and referred to as the Food Bank Advisory Committee.

(b) Members of the committee who are not state employees shall be paid per diem for their actual expenses in attending committee meetings.

(c) The committee shall do all of the following:

(1) Advise the State and Consumer Services Agency in the establishment of new food banks.

(2) Advise in the adequate and efficient distribution of surplus food commodities to all areas of the state.

SEC. 30. Section 6276.12 of the Government Code is amended to read:

6276.12. Conservatee, confidentiality of the conservatee's report, Section 1826, Probate Code.

Conservatee, estate plan of, confidentiality of, Section 2586, Probate Code.

Conservatee with disability, confidentiality of report, Section 1827.5, Probate Code.

Conservator, confidentiality of conservator's birthdate and driver's license number, Section 1834, Probate Code.

Conservator, supplemental information, confidentiality of, Section 1821, Probate Code.

Conservatorship, court review of, confidentiality of report, Section 1851, Probate Code.

Consumer credit report information prohibited from being furnished for employment purposes, Section 1785.18, Civil Code.

Consumer fraud investigations, access to complaints and investigations, Section 26509, Government Code.

Consumption or utilization of mineral materials, disclosure of, Section 2207.1, Public Resources Code.

Contractor, evaluations and contractor responses, confidentiality of, Section 10370, Public Contract Code.

Contractor, license applicants, evidence of financial solvency, confidentiality of, Section 7067.5, Business and Professions Code.

Controlled Substance Law violations, confidential information, Section 818.7, Government Code.

Controlled substance offenders, confidentiality of registration information, Section 11594, Health and Safety Code.

Cooperative Marketing Association, confidential information disclosed to conciliator, Sections 54453 and 54457, Food and Agricultural Code.

Coroner, inquests, subpoena duces tecum, Sections 27491.8 and 27498, Government Code.

Corporations, commissioner, publication of information filed with commissioner, Section 25605, Corporations Code.

County alcohol programs, confidential information and records, Section 11812, Health and Safety Code.

County Employees' Retirement, confidential statements and records, Section 31532, Government Code.

County mental health system, confidentiality of client information, Section 5610, Welfare and Institutions Code.

County social services, investigation of applicant, confidentiality, Section 18491, Welfare and Institutions Code.

County social services rendered by volunteers, confidentiality of records of recipients, Section 10810, Welfare and Institutions Code.

Court files, access to, restricted for 60 days, Section 1161.2, Code of Civil Procedure.

Court reporters, confidentiality of records and reporters, Section 68525, Government Code.

Court-appointed special advocates, confidentiality of information acquired or reviewed, Section 105, Welfare and Institutions Code.

Crane employers, previous business identities, confidentiality of, Section 7383, Labor Code.

Credit unions, confidentiality of investigation and examination reports, Section 14257, Financial Code.

Credit unions, confidentiality of employee criminal history information, Section 14409.2, Financial Code.

Credit unions, confidentiality of financial reports, Section 16120, Financial Code.

Criminal defendant, indigent, confidentiality of request for funds for investigators and experts, Section 987.9, Penal Code.

Criminal felon placed in diagnostic facility, confidentiality of report of diagnosis and recommendation, Sections 1203.3 and 1543, Penal Code.

Criminal offender record information, access to, Sections 11076, 11077, 11081, 13201, and 13202, Penal Code.

Criminal records information, disclosure by vendor, Section 11149.4, Penal Code.

Crop reports, confidential, subdivision (e), Section 6254, Government Code.

Customer list of employment agency, trade secret, Section 16607, Business and Professions Code.

Customer list of telephone answering service, trade secret, Section 16606, Business and Professions Code.

SEC. 31. Section 6276.30 of the Government Code is amended to read:

6276.30. Major Risk Medical Insurance Program, negotiations with health plans, subdivisions (v) and (w) of Section 6254, Government Code.

Mandated blood testing and confidentiality to protect public health, prohibition against compelling identification of test subjects, Section 120975, Health and Safety Code.

Mandated blood testing and confidentiality to protect public health, unauthorized disclosures of identification of test subjects, Section 120980, Health and Safety Code.

Mandated blood testing and confidentiality to protect public health, disclosure to patient's spouse, sexual partner, needle sharer, or county health officer, Section 121015, Health and Safety Code.

Manufactured home, mobilehome, floating home, confidentiality of home address of registered owner, Section 18081, Health and Safety Code.

Marital confidential communications, Sections 980, 981, 982, 983, 984, 985, 986, and 987, Evidence Code.

Market reports, confidential, subdivision (e), Section 6254, Government Code.

Marketing of commodities, confidentiality of financial information, Section 58781, Food and Agricultural Code.

Marketing orders, confidentiality of processors or distributors' information, Section 59202, Food and Agricultural Code.

Marriage, confidential, certificate, Section 511, Family Code.

Medi-Cal Benefits Program, confidentiality of information, Section 14100.2, Welfare and Institutions Code.

Medi-Cal Benefits Program, Evaluation Committee, confidentiality of information, Section 14132.6, Welfare and Institutions Code.

Medi-Cal Benefits Program, Request of Department for Records of Information, Section 14124.89, Welfare and Institutions Code.

Medi-Cal Fraud Bureau, confidentiality of complaints, Section 12528, Government Code.

Medical information, disclosure by provider unless prohibited by patient in writing, Section 56.16, Civil Code.

Medical information, types of information not subject to patient prohibition of disclosure, Section 56.30, Civil Code.

Medical and other hospital committees and peer review bodies, confidentiality of records, Section 1157, Evidence Code.

Medical or dental licensee, action for revocation or suspension due to illness, report, confidentiality of, Section 828, Business and Professions Code.

Medical or dental licensee, disciplinary action, denial or termination of staff privileges, report, confidentiality of, Sections 805, 805.1, and 805.5, Business and Professions Code.

Meetings of state agencies, disclosure of agenda, Section 11125.1, Government Code.

Mental institution patient, notification to peace officers of escape, Section 7325.5, Welfare and Institutions Code.

Mentally abnormal sex offender committed to state hospital, confidentiality of records, Section 4135, Welfare and Institutions Code.

Mentally disordered and developmentally disabled offenders, access to criminal histories of, Section 1620, Penal Code.

Mentally disordered persons, court-ordered evaluation, confidentiality of reports, Section 5202, Welfare and Institutions Code.

Mentally disordered or mentally ill person, confidentiality of written consent to detainment, Section 5326.4, Welfare and Institutions Code.

Mentally disordered or mentally ill person, voluntarily or involuntarily detained and receiving services, confidentiality of records and information, Sections 5328, 5328.01, 5328.02, 5328.05, 5328.1, 5328.15, 5328.2, 5328.3, 5328.4, 5328.5, 5328.7, 5328.8, 5328.9, and 5330, Welfare and Institutions Code.

Mentally disordered or mentally ill person, weapons restrictions, confidentiality of information about, Section 8103, Welfare and Institutions Code.

Milk marketing, confidentiality of records, Section 61443, Food and Agricultural Code.

Milk product certification, confidentiality of, Section 62121, Food and Agricultural Code.

Milk, market milk, confidential records and reports, Section 62243, Food and Agricultural Code.

Milk product registration, confidentiality of information, Section 38946, Food and Agricultural Code.

Milk equalization pool plan, confidentiality of producers' voting, Section 62716, Food and Agricultural Code.

Mining report, confidentiality of report containing information relating to mineral production, reserves, or rate of depletion of mining operation, Section 2207, Public Resources Code.

Minor, criminal proceeding testimony closed to public, Section 859.1, Penal Code.

Minors, material depicting sexual conduct, records of suppliers to be kept and made available to law enforcement, Section 1309.5, Labor Code.

Misdemeanor and felony reports by police chiefs and sheriffs to Department of Justice, confidentiality of, Sections 11107 and 11107.5, Penal Code.

Monetary instrument transaction records, confidentiality of, Section 14167, Penal Code.

Missing persons' information, disclosure of, Sections 14201 and 14203, Penal Code.

Morbidity and mortality studies, confidentiality of records, Section 100330, Health and Safety Code.

Motor vehicle accident reports, disclosure, Sections 16005, 20012, and 20014, Vehicle Code.

Motor vehicles, department of, public records, exceptions, Sections 1808 to 1808.7, inclusive, Vehicle Code.

Motor vehicle insurance fraud reporting, confidentiality of information acquired, Section 1874.3, Insurance Code.

Motor vehicle liability insurer, data reported to Department of Insurance, confidentiality of, Section 11628, Insurance Code.

Multijurisdictional drug law enforcement agency, closed sessions to discuss criminal investigation, Section 54957.8, Government Code.

SEC. 32. Section 6276.46 of the Government Code is amended to read:

6276.46. Unclaimed property, Controller records of, disclosure, Section 1582, Code of Civil Procedure.

Unemployment compensation, disclosure of confidential information, Section 2111, Unemployment Insurance Code.

Unemployment compensation, information obtained in administration of code, Section 1094, Unemployment Insurance Code.

Unemployment compensation, purposes for which use of information may be authorized, Section 1095, Unemployment Insurance Code.

Unemployment fund contributions, publication of annual tax rate, Section 989, Unemployment Insurance Code.

Unsafe working condition, confidentiality of complainant, Section 6309, Labor Code.

Use fuel tax information, disclosure prohibited, Section 9255, Revenue and Taxation Code.

Utility systems development, confidential information, subdivision (e), Section 6254, Government Code.

Vehicle registration, confidentiality of information, Section 4750.4, Vehicle Code.

Vehicle accident reports, disclosure of, Sections 16005, 20012, and 20014, Vehicle Code and Section 27177, Streets and Highways Code.

Vehicular offense, record of, confidentiality five years after conviction, Section 1807.5, Vehicle Code.

Veterans Affairs, Department of, confidentiality of records of contract purchasers, Section 85, Military and Veterans Code.

Veterinarian or animal health technician, alcohol or dangerous drugs diversion and rehabilitation records, confidentiality of, Section 4871, Business and Professions Code.

Victim, statements at sentencing, Section 1191.15, Penal Code.

Victims' Legal Resource Center, confidentiality of information and records retained, Section 13897.2, Penal Code.

Victims of crimes compensation program, confidentiality of records, subdivision (d), Section 13968, Government Code.

Voter, registration by confidential affidavit, Section 2194, Elections Code.

Voter registration card, confidentiality of information contained in, Section 6254.4, Government Code.

Voting, secrecy, Section 1050, Evidence Code.

Wards and dependent children, inspection of juvenile court documents, Section 827, Welfare and Institutions Code.

SEC. 33. Section 8293 of the Government Code is amended to read:

8293. The commission shall file a report at each regular session of the Legislature that shall contain a calendar of topics selected by it for study, including a list of the studies in progress and a list of topics intended for future consideration. The commission shall confine its studies to those topics set forth in the calendar contained in its last preceding report that have been or are thereafter approved for its study by concurrent resolution of the Legislature. The commission shall also study any topic that the Legislature, by concurrent resolution or statute, refers to it for study.

SEC. 34. Section 8588.5 of the Government Code is amended to read:

8588.5. To promote an increase in the number of trained disaster search dog teams, the Office of Emergency Services shall do all of the following:

(a) Provide instruction to California disaster dog trainers in Swiss techniques.

(b) Work to secure authorization to conduct training for disaster search dog teams at existing facilities operated by the California National Guard and the Department of Transportation on the grounds of Camp San Luis Obispo.

(c) Engage in recruiting activities for the purpose of increasing the number of disaster search dog teams in southern California.

(d) Reimburse disaster search dog handlers and instructors for the costs of their travel and that of their dogs to training facilities within California.

SEC. 35. Section 8593.3 of the Government Code is repealed.

SEC. 36. Section 8599.1 of the Government Code is repealed.

SEC. 37. Section 8870.75 of the Government Code is repealed.

SEC. 38. Section 8875.1 of the Government Code is amended to read:

8875.1. A program is hereby established within all cities, both general law and chartered, and all counties and portions thereof located within seismic zone 4, as defined and illustrated in Chapter 2-23 of Part 2 of Title 24 of the California Administrative Code, to identify all potentially hazardous buildings and to establish a program for mitigation of identified potentially hazardous buildings.

SEC. 39. Section 8877.7 of the Government Code is repealed.

SEC. 40. Section 9116 of the Government Code is repealed.

SEC. 41. Section 9121 of the Government Code is amended to read:

9121. (a) This article shall be deemed and construed to be separate and complete authority for all of the actions authorized by this article, including, but not limited to, the development, design, construction, operation, maintenance, and financing of the project, and all acts related thereto, and the transfer and relocation of the present occupants of the buildings to new facilities. To the extent that this article is inconsistent with any other general statute or special act or parts thereof, or any local government laws, rules, and regulations, now or hereafter enacted, this article is controlling.

(b) Notwithstanding any other provision of law, the project authorized by this article shall be subject to Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code and Division 13 (commencing with Section 21000) of the Public Resources Code.

(c) The project authorized by this article shall not be subject to any other state or local government requirement, limitation, or control, including, but not limited to, zoning and building permits.

(d) This article shall be liberally construed to effect its purpose and in a manner that will promote the acquisition, construction, renovation, improvement, and financing of the project.

(e) Notwithstanding any other provision of this article, no funds shall be expended for the destruction, removal, remodeling, or rehabilitation of the existing buildings on the project property prior to the completion of the feasibility study required pursuant to former Section 9116, as added by Chapter 1366 of the Statutes of 1989, and the approval of the funding source and the project scope and cost by a subsequently enacted resolution of both houses of the Legislature.

SEC. 42. Section 11011.15 of the Government Code is amended to read:

11011.15. (a) The Department of General Services shall maintain a complete and accurate statewide inventory of all real property held by the state and categorize that inventory by agency and geographical

location. The inventory shall include all information furnished by agencies pursuant to subdivision (b) and the University of California pursuant to Section 11011.17. The inventory shall be updated annually.

(b) Each agency shall furnish the department, in the format specified by the department, a record of each parcel of real property that it possesses. Each agency shall update its real property holdings, reflecting any changes, by July 1 of each year. This record shall include, but is not limited to, all of the following information:

(1) The location of the property within the state and the county, the size of the property, including its acreage, and any other relevant property data which the department deems necessary. This latter requirement shall be uniformly applied to all agencies.

(2) The date of the acquisition of the real property, if available.

(3) The manner in which the property was acquired and the purchase price, if available.

(4) A description of the current uses of the property and any projected future uses during the next three years. In the case of land held for state park use whose projected use would exceed a three-year period, the projected use and estimated date of construction or use shall be furnished.

(5) A concise description of each major structure located on the property.

(6) The estimated value of real property declared surplus by the agency and real property where the agency has not identified a current or potential use.

(c) The department shall prepare a separate report and shall update the report annually of all properties declared surplus or properties with no identified current or projected use. The report shall be made available upon request.

SEC. 43. Section 11011.19 of the Government Code is repealed.

SEC. 44. Section 12092 of the Government Code is amended to read:

12092. (a) This section shall be known, and may be cited, as the California Low Income Home Energy Assistance Program. The California Low Income Home Energy Assistance Program may be referred to as the California LIHEAP.

(b) The Department of Community Services and Development shall implement the California LIHEAP.

(c) The California LIHEAP shall be separate from the federal Low-Income Home Energy Assistance Program Block Grant provided for pursuant to the Low-Income Home Energy Assistance Act of 1981, as amended (42 U.S.C. Sec. 8621, et seq.), which is administered by the Department of Community Services and Development pursuant to Sections 16367.5 to 16367.8, inclusive.

(d) The California LIHEAP established pursuant to this section is separate from and independent of the California LIHEAP established in Chapter 7 of the Statutes of 2001, First Extraordinary Session.

(e) Services provided by the California LIHEAP shall be designed to do both of the following:

(1) Increase energy conservation and reduce demand for energy services in low-income households.

(2) Ensure that the most vulnerable households cope with high energy costs.

(f) The California LIHEAP shall include weatherization and conservation services, energy crisis intervention services, and cash assistance payments.

(g) (1) Persons eligible for the California LIHEAP shall be limited to households with incomes that do not exceed the greater of either of the following:

(A) An amount equal to 60 percent of the state median income.

(B) An amount equal to 80 percent of the median income of the county in which the household is located.

(2) In no area shall households whose income is greater than 250 percent of the federal poverty level for the state be eligible.

(3) Notwithstanding paragraphs (1) and (2), licensed community care facilities serving six or fewer adults or children shall be eligible for weatherization and energy education under California LIHEAP.

(h) The department shall examine the penetration of other energy programs, including, but not limited to, those provided by federal grant funds obtained pursuant to the federal LIHEAP, utility companies, and other parties, to identify the adequacy of services to all of the following:

(1) Elderly persons.

(2) Disabled persons.

(3) Limited-English-speaking persons.

(4) Migrant and seasonal farmworkers.

(5) Households with very young children.

(i) The California LIHEAP funds shall be distributed in grant form by the department so as to ensure that vulnerable populations have comparable access to energy programs.

(j) The department shall ensure that services under the California LIHEAP are delivered subject to all of the following requirements:

(1) The department shall establish reasonable limits for expenditures, including up to 15 percent for outreach and training for consumers.

(2) Grantee agencies shall do special outreach to vulnerable households, including outreach to senior centers, independent living centers, welfare departments, regional centers, and migrant and seasonal farmworkers.

(3) Grantee agencies shall be required to coordinate with other low-income energy programs, and to demonstrate plans for using all energy resources efficiently for maximum outreach to low-income households.

(4) Grantee agencies shall spend the maximum feasible amount of the California LIHEAP funds for weatherization assistance, but in no event shall less than 50 percent of the funds available to the grantee be spent for weatherization purposes. The balance shall be used for cash assistance and energy crisis intervention. The department shall provide grantees with maximum flexibility to use energy crisis and cash assistance funds to resolve energy crises for households and to serve the maximum number of households. Cash assistance payments may be used as a supplement to federal LIHEAP cash assistance payments.

(k) The department shall do all of the following in addition to administering the program:

(1) Explore, with grantee agencies, standards for determining effective, efficient intake procedures, and procedures to combine outreach for federal, state, and utility low-income energy programs into a single intake process.

(2) Report to the policy and budget committees of the Legislature on the extent to which increased flexibility in weatherization measures and flexibility in cash assistance and crisis intervention payments have increased service and reduced energy demand. If barriers to flexibility exist, the report shall identify those barriers.

(3) Report to the policy and budget committees of the Legislature on the number of recipients of service, the number of grantees providing service, categories of expenditure, estimated impact of funds on energy demand, estimated unmet need, and plans for automated and routine reporting of this information.

(l) The department shall distribute funds in the 2001–02 fiscal year as follows:

(1) Funds shall be distributed to have maximum possible impact on reducing energy demand immediately.

(2) First priority shall be to distribute funds through community-based programs with which the department has existing contracts.

(3) If additional capacity is needed beyond the existing network, or if vulnerable populations cannot be served within the existing contracts, the department may develop a request for proposal process to solicit additional grantees.

(m) The department shall limit administrative costs to not more than 2½ percent of the funds expended. For the purposes of this subdivision, “administrative costs” means personnel and overhead costs associated with the implementation of each measure or program. However,

“administrative costs” does not include costs associated with the marketing or evaluation of a measure or program.

(n) 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. 45. Section 12173 of the Government Code is amended to read:

12173. The Secretary of State’s office shall develop a program to utilize modern communications and information processing technology to enhance the availability and accessibility of information on statewide candidates and ballot initiatives. This includes making information available online as well as through other information processing technology.

SEC. 46. Section 14036.6 of the Government Code is amended to read:

14036.6. (a) The Legislature finds and declares all of the following:

(1) Rail passes offering unlimited travel on certain passenger rail and associated transit services for a specified period of time and a fixed price have been a success in Europe, Canada, and Alaska.

(2) A “California Pass,” valid on state-funded intercity and commuter rail lines, state-funded feeder buses, and major local transit systems would be a major benefit to tourism, while at the same time providing a package of transportation options which do not worsen highway congestion.

(3) Use of a single payment mechanism makes existing mass transportation services easier to use, by eliminating the need for familiarity with multiple complex tariffs and the need for correct change.

(b) The department shall investigate, and if feasible implement, a “California Pass” which would be valid, to the extent possible, for all of the following transportation services:

(1) State-funded intercity rail services in the San Diego-Los Angeles, Los Angeles-Santa Barbara, Los Angeles-Fresno-bay area/Sacramento, and Sacramento-bay area rail corridors.

(2) State-funded feeder buses operated in conjunction with the intercity rail services, including, but not limited to, the service operated between Merced and Yosemite National Park for the San Joaquin trains.

(3) Commuter rail services.

(4) Public transit services.

(5) Other transportation services.

(c) The department shall consider offering passes valid for travel over a specified consecutive number of days, as well as so-called “flexi-passes” valid for a specified number of days within a longer period of time. In addition, the department shall develop a procedure for

distributing pass revenues to each participating operating entity, and for marketing the pass to prospective users.

(d) Prior to implementing a "California Pass" program, the department shall consult with each participating operating entity. The department shall not adopt procedures for the distribution of pass revenues without first submitting the proposed procedures to each affected operating entity.

(e) Nothing in this section precludes the department from implementing, as an interim measure, any marketing device to increase ridership on state-funded rail and bus services.

SEC. 47. Section 14525.6 of the Government Code is repealed.

SEC. 48. Section 15814.25 of the Government Code, as added by Section 4 of Chapter 1178 of the Statutes of 1993, is amended to read:

15814.25. Energy conservation measures eligible for financing by kindergarten through grade 12 schools shall be limited to those measures recommended pursuant to an energy audit provided by the State Energy Resources Conservation and Development Commission under its existing authority.

SEC. 49. Part 14 (commencing with Section 16000) of Division 3 of Title 2 of the Government Code is repealed.

SEC. 50. Section 16272.3 of the Government Code is repealed.

SEC. 51. Section 16272.5 of the Government Code is amended to read:

16272.5. The State Controller, shall total the amounts determined pursuant to former Section 16272.3, as amended by Chapter 332 of the Statutes of 1978, and shall determine the proportion which the amounts submitted by each governing body bears to the total amount of the property taxes reported by all such governing bodies. The percentage determined for each governing body shall be applied to the one hundred twenty-five million dollars (\$125,000,000) to determine the dollar share of the surplus allocation for each governing body. The Controller shall then notify in writing each fiscal officer of the allocation which will be made for the 1978-79 fiscal year, on or before July 20, 1978.

SEC. 52. Chapter 5 (commencing with Section 16285) of Part 1.5 of Division 4 of Title 2 of the Government Code is repealed.

SEC. 53. Section 16367.9 of the Government Code is repealed.

SEC. 54. Section 19995.35 of the Government Code is repealed.

SEC. 55. Section 19998.5 of the Government Code is repealed.

SEC. 56. Section 30605 of the Government Code is repealed.

SEC. 57. Section 51015.05 of the Government Code is amended to read:

51015.05. (a) The State Fire Marshal shall establish and maintain a centralized database containing information and data regarding the following intrastate pipelines:

(1) Pipelines, as defined in paragraph (3) of subdivision (a) of Section 51010.5, used for the transportation of crude oil that operate by gravity or at a stress level of 20 percent or less of the specified minimum yield strength of the pipe.

(2) Pipelines, as defined in paragraph (4) of subdivision (a) of Section 51010.5, used for the transportation of petroleum in onshore gathering lines located in rural areas.

(b) The database shall include, but is not limited to, an inventory of the pipelines described in subdivision (a), including pipeline locations, ownership, ages, and inspection histories, that are in the possession of the owner or operator of the oil field or other gas facility.

(c) The State Fire Marshal shall regularly update the database and shall make the information in the database available to the public, and to all local, state, and federal agencies.

(d) Any state or local governmental agency that regulates, supervises, or exerts authority over any pipeline described in subdivision (a) shall report any information or data specified in subdivision (b) in its possession to the State Fire Marshal. That information shall be submitted to the State Fire Marshal in a computer compatible format.

(e) The State Fire Marshal shall conduct a study of the fitness and safety of all pipelines described in subdivision (a), and investigate incentive options that would encourage pipeline replacement or improvements, including, but not limited to, a review of existing regulatory, permit, and environmental impact report requirements and other existing public policies, as may be identified by the Pipeline Safety Advisory Committee and adopted by the State Fire Marshal, that could act as barriers to the replacement or improvement of those pipelines.

(f) The costs of this section shall be funded from federal block grant funds. This section shall become operative only upon receipt of these federal block grant funds as determined by the State Fire Marshal. Upon receipt of these funds the State Fire Marshal shall provide written notice to both houses of the Legislature for publication in their respective journals.

SEC. 58. Section 51015.1 of the Government Code is repealed.

SEC. 59. Section 53117 of the Government Code is repealed.

SEC. 60. Article 6.5 (commencing with Section 53125) of Chapter 1 of Part 1 of Division 2 of Title 5 of the Government Code is repealed.

SEC. 61. Section 68106 of the Government Code is repealed.

SEC. 62. Section 68511.4 of the Government Code is repealed.

SEC. 63. Section 68515 of the Government Code is repealed.

SEC. 64. Section 1179.2 of the Health and Safety Code is amended to read:

1179.2. (a) The Health and Welfare Agency shall establish an interdepartmental Task Force on Rural Health to coordinate rural health

policy development and program operations and to develop a strategic plan for rural health.

(b) At a minimum, the following state departmental directors, or their representatives, shall participate on this task force:

- (1) The Director of Health Services.
- (2) The Director of Statewide Health Planning and Development.
- (3) The Director of Alcohol and Drug Programs.
- (4) The Director of the Emergency Medical Services Authority.
- (5) The Director of Mental Health.
- (6) The Executive Director of the Managed Risk Medical Insurance Board.

(c) The task force shall review and direct the activities of the Office of Rural Health or the alternative organizational structure, as determined by the Secretary of the Health and Welfare Agency.

(d) The task force shall establish appropriate mechanisms, such as ad hoc or standing advisory committees or the holding of public hearings in rural communities for the purpose of soliciting and receiving input from these communities, including input from rural hospitals, rural clinics, health care service plans, local governments, academia, and consumers.

SEC. 65. Section 1205.1 of the Health and Safety Code is repealed.

SEC. 66. Section 1275.3 of the Health and Safety Code is amended to read:

1275.3. (a) The State Department of Health Services and the State Department of Developmental Services shall jointly develop and implement licensing and Medi-Cal regulations appropriate for intermediate care facilities/developmentally disabled—nursing. The Director of Health Services shall adopt these regulations as emergency regulations and, notwithstanding any provision of law, shall transmit emergency regulations adopted pursuant to this subdivision directly to the Secretary of State for filing, and regulations shall become effective immediately upon filing.

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.

(b) The regulations adopted pursuant to subdivision (a) shall ensure that residents of intermediate care facilities/developmentally disabled—nursing receive appropriate medical and nursing services, and developmental program services in a normalized, least restrictive physical and programmatic environment appropriate to individual resident need.

In addition, the regulations shall do all of the following:

(1) Include provisions for the completion of a clinical and developmental assessment of placement needs, including medical and

other needs, and the degree to which they are being met, of clients placed in an intermediate care facility/developmentally disabled—nursing and for the monitoring of these needs at regular intervals.

(2) Provide for maximum utilization of generic community resources by clients residing in a facility.

(3) Require the State Department of Developmental Services to review and approve an applicant's program plan as part of the licensing and certification process.

(4) Require that the physician providing the certification that placement in the intermediate care facility/developmentally disabled—nursing is needed, consult with the physician who was the physician of record at the time the person's proposed placement is being considered by the interdisciplinary team.

(c) Regulations developed pursuant to this section shall include licensing fee schedules appropriate to facilities which will encourage their development.

(d) Nothing in this section supersedes the authority of the State Fire Marshal pursuant to Sections 13113, 13113.5, 13143, and 13143.6 to the extent that these sections are applicable to community care facilities.

SEC. 67. Section 1519 of the Health and Safety Code is repealed.

SEC. 68. Section 1520.65 of the Health and Safety Code is repealed.

SEC. 69. Section 1522.4 of the Health and Safety Code is amended to read:

1522.4. (a) In addition to any other requirements of this chapter and except for foster family homes, small family homes, and certified family homes of foster family agencies, all of the following apply to any community care facility providing 24-hour care for children:

(1) The facility shall have one or more facility managers. "Facility manager," as used in this section, means a person on the premises with the authority and responsibility necessary to manage and control the day-to-day operation of a community care facility and supervise the clients. The facility manager, licensee, and administrator, or any combination thereof, may be the same person provided he or she meets all applicable requirements. If the administrator is also the facility manager for the same facility, this person shall be limited to the administration and management of only one facility.

(2) The facility manager shall have at least one year of experience working with the client group served, or equivalent education or experience, as determined by the department.

(3) A facility manager shall be at the facility at all times when one or more clients are present. To ensure adequate supervision of clients when clients are at the facility outside of their normal schedule, a current telephone number where the facility manager can be reached shall be provided to the clients, licensing agency, school, and any other agency

or person as the department determines is necessary. The facility manager shall instruct these agencies and individuals to notify him or her when clients will be returning to the facility outside of the normal hours.

(4) The Legislature intends to upgrade the quality of care in licensed facilities. For the purposes of Sections 1533 and 1534, the licensed facility shall be inspected and evaluated for quality of care at least once each year, without advance notice and as often as necessary, without advance notice, to ensure the quality of care being provided.

Paragraphs (1), (2), and (3) shall apply only to new facilities licensed for six or fewer children which apply for a license after January 1, 1985, and all other new facilities licensed for seven or more children which apply for a license after January 1, 1988. Existing facilities licensed for seven or more children shall comply by January 1, 1989.

(b) No employee of the state or county employed in the administration of this chapter or employed in a position that is in any way concerned with facilities licensed under this chapter shall hold a license or have a direct or indirect financial interest in a facility described in subdivision (a).

The department, by regulation, shall make the determination pursuant to the purposes of this section and chapter, as to what employment is in the administration of this chapter or in any way concerned with facilities licensed under this chapter and what financial interest is direct or indirect.

This subdivision does not prohibit the state or county from securing a license for, or operating, a facility that is otherwise required to be licensed under this chapter.

(c) (1) No group home or foster family agency licensee, or employee, member of the board of directors, or officer of a group home or foster family agency licensee, shall offer gifts or other remuneration of any type to any employee of the State Department of Social Services or placement agency that exceeds the monetary limits for gifts to employees of the State of California pursuant to Title 9 (commencing with Section 81000) of the Government Code and regulations adopted thereunder by the Fair Political Practices Commission.

(2) No employee of the department or a placement agency shall accept any gift or other remuneration of any type from a group home or foster family agency licensee or employee, member of the board of directors, or officer of a group home or foster family agency licensee that exceeds the monetary limits for gifts to employees of the State of California in Title 9 (commencing with Section 81000) of the Government Code and regulations adopted thereunder by the Fair Political Practices Commission.

(3) Violation of this subdivision is punishable as a misdemeanor.

SEC. 70. Section 1522.6 of the Health and Safety Code is repealed.

SEC. 71. Section 1527.9 of the Health and Safety Code is repealed.

SEC. 72. Section 1529.3 of the Health and Safety Code is repealed.

SEC. 73. Section 1557 of the Health and Safety Code is repealed.

SEC. 74. Section 1569.545 of the Health and Safety Code is repealed.

SEC. 75. Section 1596.955 of the Health and Safety Code is amended to read:

1596.955. (a) The department shall develop guidelines and procedures to permit licensed child day care centers serving preschool age children to create a special program component for children between the ages of 18 months and 30 months. This optional toddler program shall be subject to the following basic conditions:

(1) An amended application is submitted to and approved by the department.

(2) No child shall be placed in the preschool program before the age of 30 months without parental permission. A child who is more than 30 months of age may participate in the toddler program with parental permission.

(3) Parents give permission for the placement of their children in the toddler program.

(4) A ratio of six children to each teacher is maintained for all children in attendance at the toddler program. An aide who is participating in on-the-job training may be substituted for a teacher when directly supervised by a fully qualified teacher.

(5) The maximum group size, with two teachers, or one fully qualified teacher and one aide, does not exceed 12 toddlers.

(6) The toddler program is conducted in areas separate from those used by older or younger children. Plans to alternate use of outdoor play space may be approved to achieve separation.

(7) All other preschool regulations are complied with.

(b) The toddler program shall be considered an extension of the preschool license, without the need for a separate license.

(c) The department shall immediately prepare proposed regulations for public hearing which would consider the foregoing basic conditions as well as any additional health and safety safeguards deemed necessary for this age group.

(d) The guidelines in subdivision (a) shall remain in force and effect only until regulations implementing this section are adopted by the department.

SEC. 76. Section 1597.01 of the Health and Safety Code is repealed.

SEC. 77. Section 1598.3 of the Health and Safety Code is repealed.

SEC. 78. Section 6982 of the Health and Safety Code is amended to read:

6982. (a) Notwithstanding Section 6952, the West Bay Sanitary District may use the procedures in this chapter to provide alternative or innovative wastewater technologies in the district's jurisdiction.

(b) The determination of a public health officer pursuant to Section 6955.1 shall include written findings, adopted by the district board of directors, regarding the existing or potential public health hazard.

(c) "Alternative or innovative wastewater technologies" means either (1) an onsite wastewater disposal system, as defined in Section 6952, or (2) such a system in conjunction with communitywide sewer or sewage systems, if one or more of the components of the system is located on or in close proximity to the real property and employs innovative or alternative wastewater technologies, including, but not limited to, grinder pump pressure sewer systems, septic tank effluent pump pressure sewer systems, vacuum sewer systems, or small-diameter gravity septic tank systems.

SEC. 79. Section 11756.5 of the Health and Safety Code is repealed.

SEC. 81. Section 11757.62 of the Health and Safety Code is repealed.

SEC. 82. Section 11758.10 of the Health and Safety Code is amended to read:

11758.10. (a) Notwithstanding any other provision of law, the department shall contract with any county that requests to participate in the pilot project for the 1993–94 fiscal year.

(b) The pilot project shall terminate on June 30, 1994. The department shall negotiate, on or before July 1, 1994, multiyear net amount contracts with every county. The department shall allocate funds to each county in accordance with Sections 11814 and 11983. The department shall predicate its contract negotiations on the availability of a mutually agreeable dedicated capacity.

SEC. 83. Section 11758.33 of the Health and Safety Code is repealed.

SEC. 84. Chapter 3.5 (commencing with Section 11758.50) of Part 1 of Division 10.5 of the Health and Safety Code is repealed.

SEC. 85. Chapter 5 (commencing with Section 11759.10) of Part 1 of Division 10.5 of the Health and Safety Code is repealed.

SEC. 86. Section 11772 of the Health and Safety Code is amended to read:

11772. (a) The department may enter into contracts with public or private agencies or make grants necessary or incidental to the performance of its duties and the execution of its powers, including contracts with public or private agencies and individuals, to pay them in advance or reimburse them for services provided to problem drinkers and their families and communities. The Legislature finds and declares that many of the activities required of the department which are

necessary to carry out its duties under this part are unique to alcohol services and programs. Therefore, the Legislature directs the department to contract with public or private agencies or individuals to perform its duties whenever that expertise is available and appropriate to utilize.

(b) Notwithstanding any other provision of this part, the department may not contract directly for the provision of alcohol services except as follows:

(1) To provide referral and monitoring services for recipients of Supplemental Security Income in those counties that choose not to provide these services.

(2) For demonstration programs of limited duration and scope which, wherever possible, shall be administered through the counties and which are specifically authorized and funded by the Budget Act or other statutes.

(3) To provide supportive services, such as technical assistance, on a statewide basis, or management and evaluation studies to help assure more effective implementation of this part.

(c) The Legislature strongly encourages all counties to apply for funds under this part because of the seriousness of alcohol problems in California and the necessity for affirmative governmental involvement to help alleviate alcohol problems. However, the Legislature has chosen not to mandate that counties provide those services and programs. In the absence of local community control of the services and programs, the state shall not intervene to operate directly or through contract services and programs which the elected county board of supervisors has chosen not to provide to its constituents.

SEC. 87. Section 11782 of the Health and Safety Code is repealed.

SEC. 88. Section 11798.1 of the Health and Safety Code is amended to read:

11798.1. Notwithstanding any other requirement of this division, any county may, by resolution of its board of supervisors, develop and operate alcohol and drug abuse programs as one coordinated system. In establishing coordinated systems with combined alcohol and drug services, counties shall do all of the following:

(a) Submit a combined alcohol and drug plan, including, but not limited to, a budget of all funds allocated to the county by the department.

(b) Report all of the following to the department:

(1) Utilization of all funds allocated by the department to the county in a combined annual expenditure report pursuant to state and federal requirements.

(2) All information necessary for the department to administer this section, including, but not limited to, information needed to meet federal reporting requirements. This information shall be reported on a form

developed by the department in consultation with the County Alcohol and Drug Administrators Association.

(c) Combine drug and alcohol administrations in performance of alcohol and drug program administrative duties pursuant to Sections 11801 and 11963.

(d) In circumstances where any of the participating counties wish to combine treatment programs for persons with both alcohol and drug problems, the county shall first submit its plan and program standards for the treatment programs to the department for approval.

(e) Require combined programs, for planning and reimbursement purposes, to assess or categorize program participants at the time of admission and discharge with regard to whether their primary treatment needs are related to abuse of alcohol or of drugs.

(f) Ensure that combined programs comply with statewide program standards developed pursuant to regulations adopted by the department in consultation with the alcohol and drug administrators.

SEC. 89. Section 11831.5 of the Health and Safety Code is amended to read:

11831.5. (a) Certification shall be granted by the department pursuant to this section to any alcoholism or drug abuse recovery or treatment program wishing to receive, and requesting, the certification regardless of the source of the program's funding.

(b) The purposes of certification under this section shall be all of the following:

(1) To identify programs that exceed minimal levels of service quality, are in substantial compliance with the department's standards, and merit the confidence of the public, third-party payers, and county alcohol and drug programs.

(2) To encourage programs to meet their stated goals and objectives.

(3) To encourage programs to strive for increased quality of service through recognition by the state and by peer programs in the alcoholism and drug field.

(4) To assist programs to identify their needs for technical assistance, training, and program improvements.

(c) Certification may be granted under this section on the basis of evidence satisfactory to the department that the requesting alcoholism or drug abuse recovery or treatment program has an accreditation by a statewide or national alcohol or drug program accrediting body. The accrediting body shall be one whose accreditation meets or exceeds the department's standards and which is recognized by the department.

(d) No fee shall be levied by the department for certification of nonprofit organizations or local governmental entities under this section.

(e) Certification, or the lack thereof, shall not convey any approval or disapproval by the department, but shall be for information purposes only.

(f) The standards developed pursuant to Section 11830 and the certification under this section shall satisfy the requirements of Section 1463.16 of the Penal Code.

(g) The department and the State Department of Social Services shall enter into an interagency agreement to establish a process by which the Department of Alcohol and Drug Programs can certify residential facilities or programs serving primarily adolescents as defined in paragraph (1) of subdivision (a) of Section 1502 of the Health and Safety Code, and providing alcoholism and drug recovery or treatment services.

SEC. 90. Section 11963.5 of the Health and Safety Code is repealed.

SEC. 91. Section 11998.2 of the Health and Safety Code is amended to read:

11998.2. (a) "Department," as used in this division, means the State Department of Alcohol and Drug Programs.

(b) The board of supervisors of each county is encouraged to prepare and adopt a county drug and alcohol abuse master plan, pursuant to paragraph (1) of subdivision (f) of Section 11998.1, that addresses as many of the long-range goals set forth in Section 11998.1 as possible. It is the intent of the Legislature that every county master plan include quantitative outcome objectives that, at a minimum, measure progress in the areas of prevention, education, enforcement, and treatment. It is the intent of the Legislature that these objectives include measurements of:

(1) The reduction of arrests for driving under the influence of drugs or alcohol, or both.

(2) The reduction of alcohol and drug-related arrests.

(3) Increased public education on the dangers of substance abuse and the available prevention techniques including specific measurements of children, parents, and teachers who have received this education.

(4) The reduction of alcohol- and drug-related deaths and injuries.

(5) The increased number of persons successfully completing drug and alcohol abuse services.

If a county master plan is adopted, the board of supervisors or its designee shall, in conjunction with the county advisory boards as established pursuant to paragraph (2) of subdivision (f) of Section 11998.1, annually assess the progress of the county in reaching its long-range goals.

(c) Every county or public or private agency within a county that applies for state or local assistance funds for drug and alcohol abuse efforts in their program, may address, to the extent possible, any

long-range goals set forth in a county drug and alcohol abuse master plan established pursuant to subdivision (b), and funding priority may be given to those entities which address these goals within their respective programs.

(d) The Governor shall designate one state agency to act as the lead agency on all drug and alcohol abuse matters.

(e) Every state agency that contracts or grants money to local jurisdictions or programs for drug and alcohol abuse services shall require the submission and shall review the contents of an approved county drug and alcohol abuse master plan, to the extent a plan has been adopted pursuant to subdivision (b).

(f) Every state agency that offers drug and alcohol abuse services or financial assistance shall report annually to the Legislature on its efforts to achieve the master plan goals provided in Section 11998.1. Individual agencies may report separately or in combination with other state agencies.

(g) The department shall send copies of this division to all state-funded social service programs that provide drug and alcohol abuse services.

(h) The department shall maintain copies of every county drug and alcohol abuse master plan for review by other state agencies and the Legislature.

(i) The Governor shall designate one statewide resource center to coordinate efforts of other resource centers statewide and to coordinate with local government and assist in their preparation of drug and alcohol abuse master plans.

(j) The department shall maintain an annually updated listing of all drug and alcohol abuse programs provided or funded by the state. Every other state agency shall regularly provide the department with current information on programs they fund or provide.

(k) The Governor's Policy Council on Drug and Alcohol Abuse shall review and consider all of the goals contained in Section 11998.1.

SEC. 92. Section 13143.7 of the Health and Safety Code is repealed.

SEC. 93. Section 16109 of the Health and Safety Code is amended to read:

16109. In the event that a project involving buildings utilizing earthquake mitigation technologies and other new seismic resistant design technologies requires design review and plan approval by more than one public agency, the Coordinating Council of the Building Standards Commission shall, to the maximum extent feasible, consolidate the various hearings which may be required in order to minimize the time required for the hearings. This consolidation shall be for procedural purposes only and shall not be construed as consolidating

the statutory responsibilities of the public agencies conducting the consolidated hearings.

SEC. 94. Section 18944.34 of the Health and Safety Code is repealed.

SEC. 95. Section 25159.13 of the Health and Safety Code is repealed.

SEC. 96. Section 25159.19 of the Health and Safety Code is amended to read:

25159.19. (a) On or before July 1, 1986, the department shall, by emergency regulation, adopt a fee schedule that assesses a fee upon any person discharging any hazardous wastes into an injection well. The department shall include in this fee schedule the fees charged for filing a hazardous waste injection statement specified in former Section 25159.13, as added by Chapter 1591 of the Statutes of 1985, the report specified in Section 25159.18, and applications for, and renewals of, the exemptions specified in Section 25159.15. The department shall also include provisions in the fee schedule for assessing a penalty pursuant to subdivision (c). These fees shall be based on the reasonable anticipated costs that will be incurred by the department to implement and administer this article. The department may also request an appropriation to be used in combination with these fees to perform the monitoring, inspections, review of reports, or any other implementation and administrative actions required by this article.

(b) The emergency regulations that set the fee schedule shall be adopted by the department in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and for the purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health, and 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 regulations adopted by the department pursuant to this section shall be filed with, but not be repealed by, the Office of Administrative Law and shall remain in effect until revised by the department.

(c) The department shall send a notice to each person subject to the fee specified in subdivision (a). If a person fails to pay the fee within 60 days after receipt of this notice, the department shall require the person to pay an additional penalty fee. The department shall set the penalty fee at not more than 100 percent of the assessed fee, but in an amount sufficient to deter future noncompliance, as based upon that person's past history of compliance and ability to pay, and upon additional expenses incurred by this noncompliance.

(d) The department shall collect and deposit the fees and penalties collected pursuant to this section in the Hazardous Waste Injection Well Account, which is hereby created in the General Fund. The money within the Hazardous Waste Injection Well Account is available, upon appropriation by the Legislature, to the department for purposes of administering this article.

(e) This section applies only to injection wells into which hazardous waste is discharged.

SEC. 97. Section 25244.3 of the Health and Safety Code is repealed.

SEC. 98. Section 25299.80 of the Health and Safety Code is repealed.

SEC. 99. Section 25503.2 of the Health and Safety Code is amended to read:

25503.2. (a) The Environmental Affairs Agency, with the guidance of the Chemical Emergency Planning and Response Commission, as specified in Section 25503.1, shall develop a hazardous materials compliance assistance manual, which shall include all of the following:

(1) A copy of each form required by federal and state agencies for the reporting of activities concerning hazardous materials and criteria as to who is required to file the form.

(2) The due date for each form specified in paragraph (1).

(3) The address, telephone number, and contact person of each federal and state agency which requires the reporting forms specified in paragraph (1).

(4) An insert that contains a copy of each form used for the reporting of activities concerning hazardous materials required by each local agency under whose jurisdiction the person requesting the manual conducts business, including the due date for each form, and the address, telephone number, and contact person of each local agency.

(5) Any other information that the Environmental Affairs Agency determines to be necessary.

(b) On or before July 1, 1991, the Environmental Affairs Agency, with the guidance of the Chemical Emergency Planning and Response Commission, shall make known to businesses and other interested parties, and distribute, upon request, the hazardous materials compliance assistance manual developed pursuant to subdivision (a). The Secretary of the Environmental Affairs Agency may impose a fee for the manual to pay for all costs related to the development, maintenance, reproduction, and distribution of the manual.

SEC. 100. Article 5 (commencing with Section 25547) of Chapter 6.95 of Division 20 of the Health and Safety Code is repealed.

SEC. 101. Section 25928 of the Health and Safety Code is repealed.

SEC. 102. Section 38045 of the Health and Safety Code is repealed.

SEC. 103. Section 39663 of the Health and Safety Code is repealed.

SEC. 104. Section 40410.5 of the Health and Safety Code is amended to read:

40410.5. (a) There is hereby established within the south coast district a sensitive zone, which shall include the general forecast areas known as the San Gabriel/Pomona Valleys and the Riverside/San Bernardino areas.

(b) In addition to every other requirement for the issuance of a permit, the following requirements shall be applicable to the issuance of a permit by the south coast district for the construction or operation of any stationary source within the sensitive zone:

(1) When emission offsets are required to mitigate the air quality impacts of a stationary source, the offsets shall be secured by the applicant so as to bring about ambient air quality improvements within the sensitive zone. The applicant shall be required to demonstrate, to the satisfaction of the south coast district, that any emissions reductions acquired from stationary sources operating within the South Coast Air Basin will result in a demonstrable net ambient air quality improvement within the sensitive zone.

(2) In considering an application for a permit to construct or operate a stationary source, the south coast district board shall, in addition to making a finding and determination that the impacts of the stationary source will be mitigated so as to result in a net improvement in ambient air quality within the South Coast Air Basin, also make a finding and determination that the impacts of the stationary source can be mitigated so as to result in a net improvement in ambient air quality within the sensitive zone.

(c) The south coast district board shall adopt rules and regulations to implement this section by January 1, 1991.

SEC. 105. Section 40452 of the Health and Safety Code is amended to read:

40452. The south coast district shall submit an annual report to the state board and the Legislature summarizing its regulatory activities for the preceding calendar year. The report shall include all of the following:

(a) A summary of each major rule and rule amendment adopted by the south coast district board. The summary shall include emission reductions to be accomplished by each rule or regulation; the cost per ton of emission reduction to be achieved from each rule or regulation; other alternatives that were considered through the environmental assessment process; the cost per ton of comparable emission reductions that could have been achieved from each alternative; a statement of the reason why a given alternative was chosen; the conclusions and recommendations of the district's socioeconomic analysis, including any evaluations of employment impacts; and the source of funding for the rule or regulation. For the purposes of this subdivision, a major rule or rule

amendment is one that is intended to significantly affect air quality or that imposes emission limitations.

(b) The number of permits to operate or to construct, by type of industry, that are issued and denied, and the number of permits to operate that are not renewed.

(c) Data on emission offset transactions and applications, by pollutant, during the previous fiscal year, including an accounting of the number of applications for permits for new or modified sources that were denied because of the unavailability of emission offsets.

(d) The district's forecast of budget and staff increases proposed for the following fiscal year, and projected for the next two fiscal years. Budget and staff increases shall be related to existing programs and rules, and to new programs or rules to be adopted during the following years. The budget forecast shall provide a workload justification for proposed budget and staff changes and shall identify any cost savings to be achieved by program or staff changes. The budget forecast shall include increases in permit fees and other fees proposed for the following fiscal year and projected for the next two fiscal years.

(e) An identification of the source of all revenues collected that are used, or proposed to be used, to finance activities related to either stationary or nonstationary sources.

(f) The results of the clean fuels program as specified in Section 40448.5. This element of the report shall be submitted biennially.

SEC. 106. Section 43013.5 of the Health and Safety Code is amended to read:

43013.5. For purposes of implementing and enforcing Section 43020, the State Air Resources Board shall purchase and install a wavelength dispersive XRF spectrometer with the capability to analyze gasoline and diesel fuels and other petroleum products for sulfur content according to ASTM procedures specified by regulation.

SEC. 107. Section 44245 of the Health and Safety Code is repealed.

SEC. 108. Section 44247 of the Health and Safety Code is repealed.

SEC. 109. Section 50519 of the Health and Safety Code is amended to read:

50519. (a) The Legislature finds and declares that the need for decent housing among individuals of very low and low income is great, and that residential hotels are often the only form of housing affordable to these individuals. Many residential hotels are in poor condition and in need of rehabilitation, and many are being demolished or converted to other uses. The state can play an important role in preserving the existence and improving the quality of this housing resource through sponsoring demonstration projects that will enable local sponsors to acquire, rehabilitate, maintain, or otherwise protect and improve residential hotels as a housing resource for persons of very low and low

income. The demonstration projects should be undertaken and designed so as to demonstrate the feasibility of innovative methods of protecting and improving residential hotels and of improving their habitability while assuring their continued availability to persons of very low and low income.

(b) The following definitions govern the construction of this section:

(1) "Residential hotel" means any building containing six or more guestrooms or efficiency units, as defined by Section 17958.1, intended or designed to be used, or which are used, rented, or hired out, to be occupied, or which are occupied, for sleeping purposes by guests, which is also the primary residence of those guests, but does not mean any building containing six or more guestrooms or efficiency units, as defined by Section 17958.1, which is primarily used by transient guests who do not occupy that building as their primary residence.

(2) "Sponsor" means a local government or nonprofit housing sponsor.

(3) "Persons of low income" shall have the same meaning as persons of low income as defined in Section 50093 of the Health and Safety Code.

(c) The department, in conjunction with the State Fire Marshal, shall develop a model code for the rehabilitation of residential hotels. The department shall adopt the code on or before January 1, 1981. The code need not be adopted by any city, county, or city and county. However, those entities may adopt all or part of the code as an alternative to the requirements of the State Housing Law, Part 1.5 (commencing with Section 17910) of Division 13, as that law applies to residential hotels.

The purpose of the standards shall be to protect the health, safety, and welfare of the occupants of those residential hotels, to allow the economically feasible rehabilitation of those residential hotels, and to assure to the extent possible the preservation of those residential hotels as housing for very low and low-income persons.

(d) The agency shall develop a program of financing and loan insurance for the purpose of assisting the rehabilitation and acquisition of residential hotels serving the housing needs of very low and low-income persons by appropriate sponsors, and shall implement that program on or before January 1, 1981.

In the event that the agency is unable to implement that program, it shall report to the Legislature on or before July 1, 1981, the reasons for its inability to implement that program, and recommend methods by which the agency could implement that program.

(e) The department shall contract, subject to the availability of federal funds, with selected sponsors to acquire, rehabilitate, maintain, or otherwise protect and improve residential hotels as housing for persons of low income. The contracts may provide for grants or loans at an

interest rate which the department determines will facilitate the present and future use of residential hotels as housing for persons of very low and low income. Subject to the availability of funds, the department shall contract for the preservation and improvement of at least one residential hotel in a rural area. Subject to restrictions on funds received, the department shall give first priority to residential hotels financed or acquired with assistance from the agency pursuant to subdivision (d).

(f) In connection with contracts let pursuant to subdivision (e), the department shall fix, and may alter from time to time, a schedule of rents as may be necessary to assure affordable rents for persons of low income in residential hotels assisted by funds made available under subdivision (e), and to the extent consistent with the maintenance of the financial integrity of the sponsor of the project and with the requirements for repayment of any funds loaned as established by the department. No local government or nonprofit housing sponsor receiving funds through the provisions of subdivision (e) shall alter rents without the prior permission of the department, which permission shall be given only if the sponsor demonstrates that the alteration is necessary to defray necessary operating costs and to avoid jeopardizing the fiscal integrity of the sponsor or to maintain affordable rents to the residents in the project. If the department does not act upon a request for a rent increase within 60 days, the increase shall be deemed approved. In connection with contracts authorized by subdivision (e), the department may determine standards for the selection by sponsors of the tenants for units in projects funded by contracts pursuant to subdivision (e). The authority of the department to fix and alter rents pursuant to this subdivision shall apply only to units within residential hotels that receive assistance pursuant to subdivision (e).

SEC. 110. Section 50524 of the Health and Safety Code is amended to read:

50524. The department shall include in its statewide housing plan a review of housing assistance policies, goals, and objectives affecting the homeless.

SEC. 111. Section 50837 of the Health and Safety Code is repealed.

SEC. 112. Article 5 (commencing with Section 100475) of Chapter 3 of Part 1 of Division 101 of the Health and Safety Code is repealed.

SEC. 113. Section 101535 of the Health and Safety Code is repealed.

SEC. 114. Section 104595 of the Health and Safety Code is repealed.

SEC. 115. Section 105140 of the Health and Safety Code is amended to read:

105140. (a) In addition to the other programs provided under this chapter, it is the intent of the Legislature to encourage the Regents of the

University of California to monitor existing physician licensing requirements, and any additional requirements developed in response to Section 105135. It is also the intent of the Legislature that the regents review programs and offerings in the schools of medicine to ensure that graduates of those schools are adequately prepared to meet the licensing requirements in geriatric medicine and any other educational requirements in geriatric medicine deemed appropriate by the regents.

(b) It is the intent of the Legislature that the regents request the medical and other health science schools of the University of California to consider the need for additional emphasis on geriatrics in their curricula.

SEC. 116. Section 105175 of the Health and Safety Code is amended to read:

105175. (a) The department shall maintain a program on occupational health and occupational disease prevention, including, but not limited to, the following:

(1) Investigations into the causes of morbidity and mortality from work-induced diseases.

(2) Development of recommendations for improved control of work-induced diseases.

(3) Maintenance of a thorough knowledge of the effects of industrial chemicals and work practices on the health of California workers.

(4) Provision of technical assistance in matters of occupational disease prevention and control to the Department of Industrial Relations and other governmental and nongovernmental agencies, organizations, and private individuals.

(5) Collection and summarization of statistics describing the causes and prevalence of work-induced diseases in California.

(b) The functions provided for in subdivision (a) are intended to implement within the department a continuing research and development capability and a repository of hazardous substances capability which will reinforce and strengthen the administration of the California Occupational Safety and Health Act of 1973, Part 1 (commencing with Section 6300) of Division 5 of the Labor Code, including the capability to recommend occupational health standards to the California Occupational Safety and Health Standards Board. Whenever the repository identifies data gaps for any chemical regulated by the California Occupational Safety and Health Act of 1973, the department shall notify the Division of Occupational Safety and Health of the Department of Industrial Relations of its finding.

(c) Upon the request of the department, and in furtherance of the goals of the occupational disease prevention program, employers shall provide to the department the results of monitoring data, both exposure and

medical, which has been collected pursuant to Cal-OSHA standards and regulations.

(d) The state department shall have access without delay to any place of employment during regular working hours and at other reasonable times to conduct investigations necessary to carry out the purposes of this article and Article 2 (commencing with Section 105185), including, but not limited to, research, health hazard evaluation, and epidemiological surveillance. In connection with the investigation, the department may question privately any employer, owner, operator, agent, or employee and review and copy records collected pursuant to Cal-OSHA standards and regulations, and other related records.

(e) The repository maintained pursuant to this section and Section 147.2 of the Labor Code shall contain the report issued pursuant to former Sections 13124 and 13125 of the Food and Agricultural Code. Whenever a request for toxicity information is received concerning a chemical discussed in that report, the department shall notify the requestor of the nature and extent of any data gaps identified in the report with respect to that chemical. Whenever the repository receives a request about toxicity information on any other chemical, in addition to providing available information about the known toxic effects of exposure to the chemical, the repository shall also notify the requester of a determination by any state agency or federal agency that the chronic health effects testing data on the chemical is inadequate or incomplete. State agencies that maintain information on the toxic effects of chemicals shall provide the repository with access to that information.

SEC. 117. Section 105335 of the Health and Safety Code is repealed.

SEC. 118. Section 108865 of the Health and Safety Code is repealed.

SEC. 119. Section 110540 of the Health and Safety Code is repealed.

SEC. 120. Section 110795 of the Health and Safety Code is amended to read:

110795. (a) The department may adopt regulations that name and describe the characteristics of salmon and any other fish or other seafood it considers appropriate. The department shall consult with the Department of Fish and Game, the Joint Committee on Fisheries and Aquaculture, consumers, commercial fishermen, aquaculturists, and seafood processors, wholesalers, restaurateurs, and other retailers before adopting these regulations. The department shall not adopt any regulation that conflicts with the common name of any fish designated by the Department of Fish and Game pursuant to Section 8023 of the Fish and Game Code.

(b) In addition to the consultations required by subdivision (a), the department shall consult and seek the recommendations of the groups named in that subdivision concerning the possible need for, or desirability of, any further legislation or regulations affecting seafood labeling.

(c) No regulation adopted pursuant to this section shall deviate from a pertinent United States standard where the fish or seafood product specified is packed or processed as a standardized product under a United States standard.

(d) Nothing in this section or in regulations adopted pursuant to this section shall be construed to require the use of more than the common family name of any fish or seafood by any restaurant in menus or advertisements.

SEC. 121. Section 114820 of the Health and Safety Code is amended to read:

114820. (a) The department, with the assistance of the Office of Emergency Services, the State Energy Resources Conservation and Development Commission, and the Department of the California Highway Patrol shall, with respect to any fissile radioactive material coming within the definition of “fissile class II,” “fissile class III,” “large quantity radioactive materials,” or “low-level radioactive waste” provided by the regulations of the United States Department of Transportation (49 C.F.R. 173.389), do all of the following:

(1) Study the adequacy of current packaging requirements for radioactive materials.

(2) Study the effectiveness of special routing and timing of radioactive materials shipments for the protection of the public health.

(3) Study the advantages of establishing a tracking system for shipments of most hazardous radioactive materials.

(b) The department, with the assistance of the Office of Emergency Services, the State Energy Resources Conservation and Development Commission, and the Department of the California Highway Patrol, shall extend the nuclear threat emergency response plan to include radioactive materials in transit and provide training for law enforcement officers in dealing with those threats.

(c) Subject to Section 114765, the department, in cooperation with the Department of the California Highway Patrol, shall adopt, in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, reasonable regulations that, in the judgment of the department, promote the safe transportation of radioactive materials. The regulations shall (1) prescribe the use of signs designating radioactive material cargo; shall designate, in accordance with the results of the studies done pursuant to subdivision (a), the manner in which the shipper shall give notice of the

shipment to appropriate authorities; (2) prescribe the packing, marking, loading, and handling of radioactive materials, and the precautions necessary to determine whether the material when offered is in proper condition to transport, but shall not include the equipment and operation of the carrier vehicle; and (3) be reviewed and amended, as required, pursuant to Section 114765. The regulations shall be compatible with those established by the federal agency or agencies required or permitted by federal law to establish the regulations.

(d) Subject to Section 114765, the Department of the California Highway Patrol, after consulting with the department, shall adopt regulations specifying the time at which shipments may occur and the routes that are to be used in the transportation of cargoes of hazardous radioactive materials, as those materials are defined in regulations of the department.

SEC. 122. Section 116360 of the Health and Safety Code is amended to read:

116360. (a) The department shall take all reasonable measures it determines necessary to reduce the risk to public health from waterborne illnesses in drinking water caused by cryptosporidium and giardia, to the extent those micro-organisms are not yet able to be adequately controlled through existing drinking water treatment and other management practices.

(b) The department shall directly conduct, or order the state's public water systems to conduct, comprehensive sanitary surveys, as present resources permit, to identify risks to public health from cryptosporidium and giardia.

(c) To thoroughly address the public health risks currently posed by cryptosporidium, in particular, the department shall ensure that its initial cryptosporidium action plan, that has been circulated to public water systems serving more than 1,000 service connections, is comprehensively implemented and shall devise and implement necessary strategies for protecting the health of individuals served by smaller public water systems from cryptosporidium exposure.

SEC. 123. Section 120865 of the Health and Safety Code is repealed.

SEC. 124. Section 124135 of the Health and Safety Code is repealed.

SEC. 125. Section 124140 of the Health and Safety Code is repealed.

SEC. 126. Section 124145 of the Health and Safety Code is repealed.

SEC. 127. Section 124150 of the Health and Safety Code is amended to read:

124150. The Legislature hereby finds and declares that the activities conducted by the department pursuant to Section 124130 have confirmed and supported the findings specified in Section 124125 and, in addition, have resulted in the following findings:

(a) Very few children are currently tested for elevated blood lead levels in California. The lead registry established pursuant to Section 124130 has been effective at identifying incidents of occupational lead poisoning; however, because childhood lead screening is not now required in California, the registry is unable to serve as the exclusive mechanism to identify children with elevated blood lead levels. Additional blood lead screening needs to be done to identify children at high risk of lead poisoning.

(b) Based on emerging information about the severe deleterious effects of low levels of lead on children's health, the lead danger level is expected to be lowered from 25 to 15 micrograms of lead per deciliter of human blood.

(c) Lead poisoning poses a serious health threat for significant numbers of California children. Based on lead registry reports and targeted screening results, the department has estimated that tens of thousands of California children may be suffering from blood lead levels greater than the danger level.

(d) The implications of lead exposure to children and pregnant women from lead brought home on the clothing of workers is unknown, but may be significant.

(e) Levels of lead found in soil and paint around and on housing constitute a health hazard to children living in the housing. No regulations currently exist to limit allowable levels of lead in paint surfaces in California housing.

SEC. 128. Section 124160 of the Health and Safety Code is amended to read:

124160. The department shall continue to direct the Childhood Lead Poisoning Prevention Program to implement a program to identify and conduct medical followup of high-risk children, and to establish procedures for environmental abatement and followup designed to reduce the incidence of excessive childhood lead exposures in California. In implementing this program, the department shall utilize its own studies, as well as relevant information from the scientific literature and childhood lead poisoning programs from outside California. The particular activities specified in this section shall be initiated by January 1, 1990, and completed on or before January 1, 1993. The program shall include at least all of the following components:

(a) Lead screening. The department shall:

(1) Design and implement at least one pilot blood lead screening project targeting children at high risk of elevated blood lead levels. In designing any pilot projects, the department shall give special consideration to conducting screening through the Child Health Disability and Prevention Program.

(2) Conduct a pilot screening project to evaluate blood lead levels among children of workers exposed to lead in their occupations.

(3) Develop and issue health advisories urging health care providers to conduct routine annual screening of high-risk children between the ages of one and five years of age.

(4) Develop a program to assist local health departments in identifying and following up cases of elevated blood lead levels.

(5) Develop and conduct programs to educate health care providers regarding the magnitude and severity of, and the necessary responses to, the childhood lead poisoning problem in California.

(b) The department, in consultation with the Department of Housing and Community Development, shall adopt regulations governing the abatement of lead paint in and on housing, including, but not limited to, standards for enforcement, testing, abatement, and disposal.

(c) The department shall conduct a study to evaluate whether abatement of lead in soil is effective at reducing blood lead levels in children.

SEC. 129. Section 124195 of the Health and Safety Code is amended to read:

124195. The department shall require reports to be prepared by all programs funded pursuant to this article.

SEC. 130. Section 124235 of the Health and Safety Code is repealed.

SEC. 131. Section 127360 of the Health and Safety Code is amended to read:

127360. Nothing in this article shall be construed to authorize or require specific formats for hospital needs assessments, community benefit plans, or reports until recommendations pursuant to former Section 127365, as added by Chapter 1023 of the Statutes of 1996, are considered and enacted by the Legislature.

Nothing in this article shall be used to justify the tax-exempt status of a hospital under state law. Nothing in this article shall preclude the office from requiring hospitals to directly report their charity activities.

SEC. 132. Section 127365 of the Health and Safety Code is repealed.

SEC. 133. Section 128195 of the Health and Safety Code is amended to read:

128195. (a) The office shall issue followup reports on geriatric technician pilot projects approved by the office following 24 months of

implementation of the employment utilization phase of each project. The reports shall contain all of the following information:

(1) A description of the persons trained, including, but not limited to, the following:

(A) The total number of persons who entered training.

(B) The total number of persons who completed training.

(C) The selection method, including descriptions of any nonquantitative criteria used by employers to refer persons to training.

(D) The education and experience of the trainees prior to training.

(E) Demographic characteristics of the trainees, as available.

(2) An analysis of the training completed, including, but not limited to, the following:

(A) Curriculum and core competencies.

(B) Qualifications of the instructor.

(C) Changes in the curriculum during the pilot project or recommended for the future.

(D) The nature of clinical and didactic training, including the ratio of students to instructors.

(3) A summary of the specific services provided by geriatric technicians.

(4) The new health skills taught or the extent to which existing skills have been reallocated.

(5) Implications of the project for existing licensure laws with suggestions for changes in the law where appropriate.

(6) Implications of the project for health services curricula and for health care delivery systems.

(7) Teaching methods used in the project.

(8) The quality of care, including pertinent medication errors, incident reports, and patient acceptance in the project.

(9) The extent to which persons with new skills could find employment in the health care system, assuming laws were changed to incorporate their skills.

(10) The cost of care provided in the project, the likely cost of this care if performed by the trainees subsequent to the project, and the cost for provision of this care by current providers thereof.

(b) Notwithstanding any other provision of law, issuance of the reports described in subdivision (a) shall not require that the office terminate the geriatric technician pilot projects authorized by the office.

SEC. 134. Section 129295 of the Health and Safety Code is amended to read:

129295. The office shall establish a pilot program under this article of insuring loans to nonprofit borrowers that are not licensed to operate the facilities for which the loans are insured. The number of facilities for which loans are insured under this section shall not exceed 30 and the

aggregate amount of loans insured under this section shall not exceed six million dollars (\$6,000,000), that may be in addition to the maximum loan insurance amount otherwise authorized by subdivision (b) of Section 129285. Construction of all projects assisted under this section shall be commenced on or before January 1, 1990.

The office may delay processing or decline acceptance of loan guarantee applications under this section if the volume of applications becomes too large for existing staff to process in a timely manner or if risks associated with the pilot program are determined by the office to be unreasonable.

SEC. 135. Section 11751.51 of the Insurance Code is repealed.

SEC. 136. Section 12693.94 of the Insurance Code is repealed.

SEC. 137. Section 12696.25 of the Insurance Code is repealed.

SEC. 138. Section 139.43 of the Labor Code is amended to read:

139.43. (a) No person or entity shall advertise, print, display, publish, distribute, or broadcast, or cause or permit to be advertised, printed, displayed, published, distributed, or broadcast in any manner, any statement concerning services or benefits to be provided to an injured worker, that is paid for directly or indirectly by that person or entity and is false, misleading, or deceptive, or that omits material information necessary to make the statement therein not false, misleading, or deceptive.

(b) As soon as reasonably possible, but not later than January 1, 1994, the administrative director shall adopt regulations governing advertising by persons or entities other than physicians and attorneys with respect to services or benefits for injured workers. In promulgating regulations pursuant to this subdivision, the administrative director shall review existing regulations, including those adopted by the State Bar, to identify those regulatory approaches that may serve as a model for regulations required by this subdivision.

(c) A violation of subdivision (a) is a misdemeanor, punishable by incarceration in the county jail for not more than one year, or by a fine not exceeding ten thousand dollars (\$10,000), or both.

(d) This section shall not apply to physicians or attorneys. It is the intent of the Legislature to exempt physicians and attorneys from this section because the conduct regulated by this section, with respect to physicians and attorneys, is governed by other provisions of law.

SEC. 139. Section 6715 of the Labor Code is repealed.

SEC. 140. Section 1012.5 of the Military and Veterans Code is repealed.

SEC. 141. Section 653.1 of the Penal Code is amended to read:

653.1. (a) No person shall sell or distribute any balloon that is constructed of electrically conductive material, and filled with a gas lighter than air without:

(1) Affixing an object of sufficient weight to the balloon or its appurtenance to counter the lift capability of the balloon.

(2) Affixing a statement on the balloon, or ensuring that a statement is so affixed, that warns the consumer about the risk if the balloon comes in contact with electrical power lines.

(3) A printed identification of the manufacturer of the balloon.

(b) No person shall sell or distribute any balloon filled with a gas lighter than air that is attached to an electrically conductive string, tether, streamer, or other electrically conductive appurtenance.

(c) No person shall sell or distribute any balloon that is constructed of electrically conductive material and filled with a gas lighter than air and that is attached to another balloon constructed of electrically conductive material and filled with a gas lighter than air.

(d) No person or group shall release, outdoors, balloons made of electrically conductive material and filled with a gas lighter than air, as part of a public or civic event, promotional activity, or product advertisement.

(e) Any person who violates subdivision (a), (b), (c), or (d) shall be guilty of an infraction punishable by a fine not exceeding one hundred dollars (\$100). Any person who violates subdivision (a), (b), (c), or (d) who has been previously convicted twice of violating subdivision (a), (b), (c), or (d) shall be guilty of a misdemeanor.

(f) This section shall not apply to manned hot air balloons, or to balloons used in governmental or scientific research projects.

SEC. 142. Section 1174.6 of the Penal Code is repealed.

SEC. 143. Section 1247k of the Penal Code is amended to read:

1247k. The Judicial Council shall have the power to prescribe by rules for the practice and procedure on appeal, and for the time and manner in which the records on such appeals shall be made up and filed, in all criminal cases in all courts of this state.

The rules shall take effect on July 1, 1943, and thereafter all laws in conflict therewith shall be of no further force or effect.

SEC. 144. Section 2053 of the Penal Code is amended to read:

2053. (a) The Legislature finds and declares that there is a correlation between prisoners who are functionally literate and those who successfully reintegrate into society upon release. It is therefore the intent of the Legislature, in enacting "The Prisoner Literacy Act," to raise the percentage of prisoners who are functionally literate, in order to provide for a corresponding reduction in the recidivism rate.

(b) The Department of Corrections shall determine the reading level of each prisoner upon commitment.

SEC. 145. Section 3053.2 of the Penal Code is amended to read:

3053.2. (a) Upon the request of the victim, or the victim's parent or legal guardian if the victim is a minor, the parole authority shall impose

the following condition on the parole of a person released from prison for an offense involving threatening, stalking, sexually abusing, harassing, or violent acts in which the victim is a person specified in Section 6211 of the Family Code:

Compliance with a protective order enjoining the parolee from threatening, stalking, sexually abusing, harassing, or taking further violent acts against the victim and, if appropriate, compliance with any or all of the following:

(1) An order prohibiting the parolee from having personal, telephonic, electronic, media, or written contact with the victim.

(2) An order prohibiting the parolee from coming within at least 100 yards of the victim or the victim's residence or workplace.

(3) An order excluding the parolee from the victim's residence.

(b) The parole authority may impose the following condition on the parole of a person released from prison for an offense involving threatening, stalking, sexually abusing, harassing, or violent acts in which the victim is a person specified in Section 6211 of the Family Code:

For persons who committed the offense prior to January 1, 1997, participation in a batterer's program, as specified in this section, for the entire period of parole. For persons who committed the offense after January 1, 1997, successful completion of a batterer's program, which shall be a condition of release from parole. If no batterer's program is available, another appropriate counseling program designated by the parole agent or officer, for a period of not less than one year, with weekly sessions of a minimum of two hours of classroom time. The program director shall give periodic progress reports to the parole agent or officer at least every three months.

(c) The parole agent or officer shall refer the parolee only to a batterer's program that follows the standards outlined in Section 1203.097 and immediately following sections.

(d) The parolee shall file proof of enrollment in a batterer's program with the parole agent or officer within 30 days after the first meeting with his or her parole agent or officer, if he or she committed the offense after January 1, 1997, or within 30 days of receiving notice of this parole condition, if he or she committed the offense prior to January 1, 1997.

(e) The parole agent or officer shall conduct an initial assessment of the parolee, which information shall be provided to the batterer's program. The assessment shall include, but not be limited to, all of the following:

(1) Social, economic, and family background.

(2) Education.

(3) Vocational achievements.

(4) Criminal history, prior incidents of violence, and arrest reports.

- (5) Medical history.
- (6) Substance abuse history.
- (7) Consultation with the probation officer.
- (8) Verbal consultation with the victim, only if the victim desires to participate.

(f) Upon request of the victim, the victim shall be notified of the release of the parolee and the parolee's location and parole agent or officer. If the victim requests notification, he or she shall also be informed that attendance in any program does not guarantee that an abuser will not be violent.

(g) The parole agent or officer shall advise the parolee that the failure to enroll in a specified program, as directed, may be considered a parole violation that would result in possible further incarceration.

(h) The director of the batterer's program shall immediately report any violation of the terms of the protective order issued pursuant to paragraph (3) of subdivision (a), including any new acts of violence or failure to comply with the program requirements, to the parolee's parole agent or officer.

(i) Upon recommendation of the director of the batterer's program, a parole agent or officer may require a parolee to participate in additional sessions throughout the parole period, unless he or she finds that it is not in the interests of justice to do so. In deciding whether the parolee would benefit from more sessions, the parole agent or officer shall consider whether any of the following conditions exist:

- (1) The parolee has been violence-free for a minimum of six months.
- (2) The parolee has cooperated and participated in the batterer's program.
- (3) The parolee demonstrates an understanding of, and practices, positive conflict resolution skills.
- (4) The parolee blames, degrades, or has committed acts that dehumanize the victim or puts the victim's safety at risk, including, but not limited to, molesting, stalking, striking, attacking, threatening, sexually assaulting, or battering the victim.
- (5) The parolee demonstrates an understanding that the use of coercion or violent behavior to maintain dominance is unacceptable in an intimate relationship.
- (6) The parolee has made threats to harm another person in any manner.
- (7) The parolee demonstrates acceptance of responsibility for the abusive behavior perpetrated against the victim.

SEC. 146. Section 3424 of the Penal Code is repealed.

SEC. 147. Section 4497.40 of the Penal Code is repealed.

SEC. 148. Section 5010 of the Penal Code is amended to read:

5010. (a) The Legislature hereby finds and declares that the predominant purpose of exercise in correctional facilities should be for the maintenance of the general health and welfare of inmates and that exercise equipment and programs in correctional facilities should be consistent with this purpose.

The Legislature further finds and declares that in some cases it may be beneficial to provide access to weights for therapeutic or rehabilitative reasons under a doctor's order or for certain vocational activities such as firefighting.

(b) It is the intent of the Legislature that both the Department of Corrections and the Department of the Youth Authority eliminate or restrict access to weights and weight lifting equipment where it is determined that the particular type of equipment involved or the particular prison population or inmate involved poses a safety concern both in the correctional facility and to the public upon release. In those instances where inmates are allowed access to weights and weight lifting equipment, access shall be a privilege.

As a condition of inmate access to weights and weight lifting equipment, the departments may require inmates to participate in training in the proper use of weights and weight lifting equipment that emphasizes departmental rules and safety practices that must be observed when using weights and weight lifting equipment.

The directors of the departments, or their respective designees, may restrict individual or group access to weights and weight lifting equipment as deemed necessary for the orderly operation of the correctional facility.

(c) On or before July 1, 1995, both the Department of Corrections and the Department of the Youth Authority shall adopt regulations governing inmate access to weight lifting and weight training equipment in state prison and California Youth Authority facilities, respectively. In developing these regulations, the departments shall consider each of the following:

(1) Some prisoners may utilize weight equipment to develop strength and increase body mass and size rather than for the maintenance of general health. This use of weight equipment may create a risk of harm to other inmates, correctional officers, and staff and, upon release, to law enforcement officers and the general public.

(2) The improper use of weights and weight lifting equipment may result in injuries that require costly medical attention.

(3) Access to weights and weight lifting equipment by inmates may result in the use of the equipment by inmates to attack other inmates or correctional officers.

SEC. 149. Section 5066 of the Penal Code is amended to read:

5066. The Director of Corrections shall expand the existing prison ombudsman program to ensure the comprehensive deployment of ombudsmen throughout the state prison system with specific focus on the maximum security institutions.

SEC. 150. Section 7009 of the Penal Code is repealed.

SEC. 151. Section 7514 of the Penal Code is amended to read:

7514. (a) It shall be the chief medical officer's responsibility to see that personal counseling is provided to a law enforcement employee filing a report pursuant to Section 7510, an inmate filing a request pursuant to Section 7512, and any potential test subject, at the time the initial report or request for tests is made, at the time when tests are ordered, and at the time when test results are provided to the employee, inmate, or test subject.

The chief medical officer may provide additional counseling to any of these individuals, upon his or her request, or whenever the chief medical officer deems advisable, and may arrange for the counseling to be provided in other jurisdictions. The chief medical officer shall encourage the subject of the report or request, the law enforcement employee who filed the report, the person who filed the request pursuant to Section 7512, or in the case of a minor, the minor on whose behalf the request was filed, to undergo voluntary HIV testing if the chief medical officer deems it medically advisable. All testing required by this title or any voluntary testing resulting from the provisions of this title, shall be at the expense of the appropriate correctional institution.

(b) Notwithstanding the repeal of this section in accordance with Section 7555, the duties imposed by this subdivision shall continue in effect until they have been complied with.

SEC. 152. Section 11108.7 of the Penal Code is repealed.

SEC. 153. Section 11110 of the Penal Code is repealed.

SEC. 154. Section 13013 of the Penal Code is repealed.

SEC. 155. Section 13508 of the Penal Code is amended to read:

13508. (a) The commission shall do each of the following:

(1) Establish a learning technology laboratory that would conduct pilot projects with regard to needed facilities and otherwise implement modern instructional technology to improve the effectiveness of law enforcement training.

(2) Develop an implementation plan for the acquisition of law enforcement facilities and technology. In developing this plan, the commission shall consult with appropriate law enforcement and training organizations. The implementation plan shall include each of the following items:

(A) An evaluation of pilot and demonstration projects.

(B) Recommendations for the establishment of regional skills training centers, training conference centers, and the use of modern instructional technology.

(C) A recommended financing structure.

(b) The commission may enter into joint powers agreements with other governmental agencies for the purpose of developing and deploying needed technology and facilities.

(c) Any pilot project conducted pursuant to this section shall terminate on or before January 1, 1995, unless funding is provided for the project continuation.

SEC. 156. Section 13828.2 of the Penal Code is repealed.

SEC. 157. Section 13871 of the Penal Code is repealed.

SEC. 158. Section 14210 of the Penal Code is amended to read:

14210. (a) The Legislature finds and declares that it is the duty of all law enforcement agencies to immediately assist any person who is attempting to make a report of a missing person or runaway.

(b) The Department of the California Highway Patrol shall continue to implement the written policy, required to be developed and adopted pursuant to former Section 11114.3, for the coordination of each of its divisions with the police and sheriffs' departments located within each division in taking, transmitting, and investigating reports of missing persons, including runaways.

SEC. 159. Section 612.5 of the Public Resources Code is amended to read:

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

(1) It is in the state's public interest to have an accurate inventory of the state's soil resources.

(2) In California, the United States Soil Conservation Service has been responsible for undertaking soil surveys and soils information for many of California's agricultural counties is outdated or unavailable.

(3) Information on soils is needed for agricultural management, water and soil conservation activities, engineering and land use planning, and state and local policy decisions. Completion of the California Farmland Mapping and Monitoring Program is contingent upon availability of accurate, modern soil surveys.

(4) State funding of soil surveys has been limited to soil vegetation surveys on wildlands and no state contributions have been made toward the completion of modern soil surveys in California on cropland. In recent years, every state with incomplete soil surveys on farmland, except California, has cost-shared with the United States Soil Conservation Service to complete those surveys.

(5) Federal funding for the soil survey program of the United States Soil Conservation Service has been declining in real dollars in the past

several years and is projected to be further reduced under the requirements of the Gramm-Rudman-Hollings Deficit Reduction Act.

(6) Therefore, it is in California's interest to authorize the department to assist the United States Soil Conservation Service with the completion of soil surveys.

(b) The department shall provide financial assistance to the United States Soil Conservation Service to undertake or complete soil surveys in areas of this state where the surveys have not been completed, including, but not limited to, portions of the Counties of San Joaquin, Yuba, Colusa, Butte, Fresno, Kern, Tulare, Stanislaus, and Lassen. Financial assistance shall be applied to field work that includes onsite soils mapping, report writing, manuscript preparation, and final correlation of soils data.

(c) In allocating funds for completion of soil surveys in the United States Soil Conservation Service soil survey areas in California, the department shall consider criteria that include, but are not limited to, all of the following:

- (1) Voids in important farmland maps.
- (2) Rate and type of land use changes.
- (3) Extent of erosion, alkalinity, and other soil resource problems.
- (4) Farm-gate value of agricultural production.
- (5) Specific soil-related problems.
- (6) Status of ongoing soil surveys.
- (7) Extent of cropland in each county.
- (8) Availability of local funding or other support.

SEC. 160. Section 2802 of the Public Resources Code is repealed.

SEC. 161. Section 2804.6 of the Public Resources Code is repealed.

SEC. 162. Section 3488 of the Public Resources Code is repealed.

SEC. 163. Section 4473 of the Public Resources Code is repealed.

SEC. 164. Section 4562.5 of the Public Resources Code is amended to read:

4562.5. It is the purpose of this section to insure that soil erosion associated with timber operations is adequately controlled to protect soil resources, forest productivity, and water quality. The prevention, retardation, and control of accelerated erosion are the principal goals of this section. The board shall promulgate regulations for each district to govern timber operations that may cause significant soil disturbance.

SEC. 165. Section 4563.5 of the Public Resources Code is repealed.

SEC. 166. Section 6226 of the Public Resources Code is repealed.

SEC. 167. Section 18017 of the Public Resources Code is repealed.

SEC. 168. Section 25689 of the Public Resources Code is repealed.

SEC. 169. Section 29777 of the Public Resources Code is repealed.

SEC. 170. Section 42552 of the Public Resources Code is repealed.

SEC. 171. Section 42553 of the Public Resources Code is amended to read:

42553. Article 2 (commencing with Section 42557) shall become operative only if the report required in former Section 42552, as added by Chapter 1066 of the Statutes of 1991, contains an affirmative finding regarding the feasibility of producing recyclable telephone directories without significantly reducing the durability of the directories nor significantly increasing production costs.

SEC. 172. Section 42776 of the Public Resources Code is repealed.

SEC. 173. Section 71064 of the Public Resources Code is amended to read:

71064. (a) There is in the agency the Environmental Data Management Advisory Committee. The advisory committee shall consist of not more than seven members appointed by the secretary. The secretary shall select members who represent business, government, and environmental groups, and who have proven expertise and current knowledge in the field of electronic data exchange.

(b) The advisory committee shall advise the secretary on the quickest, most effective, and least expensive alternative systems of electronic standards for formatting data.

(c) The meetings of the advisory committee shall be open to the public and shall provide an opportunity for the public to be heard on matters considered by the advisory committee.

SEC. 174. Section 322 of the Public Utilities Code is amended to read:

322. (a) The commission shall periodically, at least once each year, compile its rules of procedure together with every order and decision of the commission relating to the conduct of the commission's hearings and proceedings.

(b) The compilation shall include, but not be limited to, matters relating to all of the following:

- (1) Pleadings.
- (2) Public notice.
- (3) Public attendance.
- (4) Specification of issues.
- (5) Prehearing procedures.
- (6) Discovery.
- (7) Evidence.
- (8) Supporting documentation.
- (9) Submission of briefs and arguments.
- (10) Meetings of the commission.

(11) All other rules of procedure governing participation in hearings and proceedings of the commission by public utilities, commission staff, and other persons.

SEC. 175. Article 4 (commencing with Section 442) of Chapter 2.5 of Part 1 of Division 1 of the Public Utilities Code is repealed.

SEC. 176. Section 701.6 of the Public Utilities Code is amended to read:

701.6. (a) The commission may authorize gas and electrical corporations to include in ratepayer-supported research and development programs, activities that relate to improving the energy efficiency of manufactured housing and mobilehomes if those programs are evaluated in accordance with the guidelines established by Section 740.1. The commission may develop a program involving utilities, representatives of the manufactured housing and mobilehome industries, and organizations representing senior citizens and consumers to increase the construction and marketing of energy efficiency measures for mobilehomes and manufactured housing.

(b) The commission may authorize gas and electrical corporations to provide incentives to seniors, low-income households, and others who buy new manufactured homes, or mobilehomes, which incorporate energy efficient measures.

(c) The commission may authorize gas and electrical corporations to recover through rates the reasonable costs associated with the programs specified in subdivisions (a) and (b).

SEC. 177. Section 5371.4 of the Public Utilities Code is amended to read:

5371.4. (a) The governing body of any city, county, or city and county may not impose a fee on charter-party carriers operating limousines. However, the governing body of any city, county, or city and county may impose a business license fee on, and may adopt and enforce any reasonable rules and regulations pertaining to operations within its boundaries for, any charter-party carrier domiciled or maintaining a business office within that city, county, or city and county.

(b) The governing body of any airport may not impose vehicle safety, vehicle licensing, or insurance requirements on charter-party carriers operating limousines that are more burdensome than those imposed by the commission. However, the governing board of any airport may require a charter-party carrier operating limousines to obtain an airport permit for operating authority at the airport.

(c) Notwithstanding subdivisions (a) and (b), the governing body of any airport may adopt and enforce reasonable and nondiscriminatory local airport rules, regulations, and ordinances pertaining to access, use of streets and roads, parking, traffic control, passenger transfers, trip fees, and occupancy, and the use of buildings and facilities, that are applicable to charter-party carriers operating limousines on airport property.

(d) This section does not apply to any agreement entered into pursuant to Sections 21690.5 to 21690.9, inclusive, between the governing body of an airport and charter-party carriers operating limousines.

(e) The governing body of any airport shall not impose a fee based on gross receipts of charter-party carriers operating limousines.

(f) Notwithstanding subdivisions (a) to (e), inclusive, nothing in this section prohibits a city, county, city and county, or the governing body of any airport, from adopting and enforcing reasonable permit requirements, fees, rules, and regulations applicable to charter-party carriers of passengers other than those operating limousines.

(g) For the purposes of this section, "limousine" includes any luxury sedan, of either standard or extended length, with a seating capacity of not more than nine passengers including the driver, used in the transportation of passengers for hire on a prearranged basis within this state.

SEC. 178. Section 5385.6 of the Public Utilities Code is amended to read:

5385.6. (a) No charter-party carrier shall operate a limousine as defined by Section 5371.4 unless the limousine is equipped with the special license plates issued and distributed by the Department of Motor Vehicles pursuant to Section 5011.5 of the Vehicle Code.

(b) The commission shall issue to each charter-party carrier operating limousines a permit or certificate for the number of vehicles verified by the carrier as employed in providing limousine service. The permit or certificate shall be submitted to the Department of Motor Vehicles, which will issue to each verified vehicle a set of unique, identifying license plates. The department shall maintain a record of each set of plates it issues and provide a copy of each record to the commission.

(c) The commission shall recover from any carrier whose permit or certificate is cancelled, suspended, or revoked any and all plates issued pursuant to this section.

(d) The special license plate shall be in lieu of the decal required to be issued and displayed pursuant to Section 5385.5.

(e) This section shall become operative on July 1, 1995.

SEC. 179. Section 5388 of the Public Utilities Code is repealed.

SEC. 180. Section 8303 of the Public Utilities Code is repealed.

SEC. 181. Section 99620 of the Public Utilities Code is amended to read:

99620. This chapter sets forth the purposes and the amounts for which allocations shall be made from the fund. Money from the fund shall be awarded as grants by the commission pursuant to Sections 99622 to 99651, inclusive, for the purposes specified in those sections. The amount of a grant awarded pursuant to any of those sections shall

not exceed the amount specified therein. The department and local agencies may implement service funded pursuant to this chapter on an incremental basis. Partial grants may be made for preliminary engineering and design purposes.

SEC. 182. Section 99621 of the Public Utilities Code is repealed.

SEC. 183. Section 2237.3 of the Revenue and Taxation Code is repealed.

SEC. 184. Section 2327 of the Revenue and Taxation Code is repealed.

SEC. 185. Section 18405 of the Revenue and Taxation Code is amended to read:

18405. (a) In the case of a new statutory provision in Part 7.5 (commencing with Section 13201), Part 10 (commencing with Section 17001), Part 10.2 (commencing with Section 18401), or Part 11 (commencing with Section 23001), or the addition of a new part, the Franchise Tax Board itself is authorized to grant relief as set forth in subdivision (b) from the requirements of the new statutory provision in a manner as provided in subdivision (c).

(b) The relief provided in subdivision (a) may be granted only for the first taxable year for which the new statutory provision is operative and only when substantial unintentional noncompliance with the new provision has occurred by a class of affected taxpayers. The relief is limited to waiving penalties or perfecting elections and may be granted only to taxpayers who timely paid taxes and other required amounts shown on the return consistent with the election and who timely filed their return (with regard to extension).

(c) The relief granted in this section shall, upon the recommendation of the Executive Officer of the Franchise Tax Board, be made by resolution of the Franchise Tax Board that sets forth the conditions, time, and manner as the Franchise Tax Board determines are necessary. The resolution shall be adopted only by an affirmative vote of each of the three members of the Franchise Tax Board.

(d) For purposes of this section:

(1) "New statutory provision" means a complete, newly established tax program, tax credit, exemption, deduction, exclusion, penalty, or reporting or payment requirement and does not mean amendments made to existing tax provisions that make minor modifications or technical changes.

(2) "Perfecting elections" includes correcting omissions or errors only when substantial evidence is present with the filed return that the taxpayer intended to make the election and does not include making an election where one was not previously attempted to be made.

(3) "Substantial unintentional noncompliance," for purposes of Part 11 (commencing with Section 23001), includes any case in which the

taxpayer filed a water's-edge contract with a timely filed original return and timely paid all taxes and other required amounts shown on the return consistent with the water's-edge election, but where the taxpayer's election is or might be invalidated by reason of the act or omission of an affiliated corporation that is not the parent or a subsidiary of the taxpayer. In that case, notwithstanding anything to the contrary in this section, relief shall be deemed granted to validate the taxpayer's water's-edge election, conditioned only upon an agreement by the affiliated corporation to either (A) file a water's-edge contract and pay all taxes and other required amounts consistent with that election, or (B) waive any right, with respect to any taxable year for which the corporation did not make a water's-edge election on its own timely filed return, to determine its income derived from or attributable to sources within this state pursuant to that election, whichever measure produces the greater amount of tax.

(e) This section shall apply to any Franchise Tax Board resolution adopted after the effective date of this section with respect to any taxable year that is subject to an open statute of limitations on the date of the resolution.

SEC. 186. Section 19264 of the Revenue and Taxation Code is amended to read:

19264. (a) Notwithstanding Sections 706.071 and 706.080 of the Code of Civil Procedure, the Franchise Tax Board shall establish a pilot program to issue earnings withholding orders for taxes and any other notice or document required to be served or provided in connection with an earnings withholding order, pursuant to Article 4 (commencing with Section 706.070) of Chapter 5 of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure, to government and private employers by magnetic media, electronic transmission, or other electronic technology. The purpose of the pilot program is to study the feasibility and cost-effectiveness of the Franchise Tax Board issuing earnings withholding orders to employers using magnetic media, electronic transmission, or other electronic technology.

(b) The pilot program shall apply to any earnings withholding order for taxes and any other notice or document required to be served or provided in accordance with subdivision (a) on or after January 1, 1997, and before January 1, 1999, to an employer who agrees to participate in the pilot program.

(c) For purposes of the pilot program, the Franchise Tax Board shall identify and work with employers who agree to be served as authorized by subdivision (a).

(d) The pilot program shall be successful if the Franchise Tax Board can demonstrate all of the following:

(1) The Franchise Tax Board's time to prepare and serve earnings withholding orders by magnetic media, electronic transmission, or other electronic technology, as authorized by subdivision (a), will be reduced by at least two days when compared to orders that would otherwise be prepared and served under Article 4 (commencing with Section 706.070) of Chapter 5 of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure.

(2) The Franchise Tax Board's administrative cost to prepare and serve earnings withholding orders by magnetic media, electronic transmission, or other electronic technology, as authorized by subdivision (a), will be less than the cost to prepare and serve orders as specified under Article 4 (commencing with Section 706.070) of Chapter 5 of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure.

(3) The employer's time and administrative costs to receive and comply with orders served in accordance with subdivision (a) do not exceed the time and administrative costs when compared to receiving and complying with orders served in accordance with Article 4 (commencing with Section 706.070) of Chapter 5 of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure.

(e) If the Franchise Tax Board determines that the pilot program is successful based on the criteria stated in subdivision (d), the Franchise Tax Board may continue to issue earnings withholding orders for taxes and any other notice or document required to be served or provided in connection with an earnings withholding order, pursuant to Article 4 (commencing with Section 706.070) of Chapter 5 of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure, to government and private employers who agree to accept service by magnetic media, electronic transmission, or other electronic technology.

(f) This section shall apply in the same manner and with the same force and effect and to the full extent as if this section had been incorporated in full into Article 4 (commencing with Section 706.070) of Chapter 5 of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure.

SEC. 187. Section 23331 of the Revenue and Taxation Code is amended to read:

23331. (a) For the purposes of this article, the effective date of dissolution of a corporation is the date on which the certified copy of the court decree, judgment, or order declaring the corporation duly wound up and dissolved is filed in the office of the Secretary of State or the date on which the certificate of winding up, if necessary, and the certificate of dissolution are filed in the office of the Secretary of State. For the purposes of this article, the effective date of withdrawal of a foreign

corporation is the date on which the certificate of withdrawal is filed in the office of the Secretary of State.

(b) The Secretary of State shall, through an information program and by forms and instructions provided to taxpayers, recommend that all documents required by this article to be filed with the Secretary of State be sent, if mailed, by certified mail with return receipt requested. The Secretary of State shall also notify taxpayers that receipt of documents by the Secretary of State pursuant to this article will be acknowledged within 21 days of receipt.

(c) On or before 21 days after their receipt, the Secretary of State shall provide a taxpayer with acknowledgment of the receipt of documents submitted by a taxpayer pursuant to this article.

SEC. 188. Section 155.8 of the Streets and Highways Code is repealed.

SEC. 189. Section 1598 of the Unemployment Insurance Code is repealed.

SEC. 190. Section 11005 of the Unemployment Insurance Code is repealed.

SEC. 191. Section 11011 of the Unemployment Insurance Code is amended to read:

11011. (a) On or before April 1, 1998, the Secretary of the Health and Welfare Agency, the Secretary of the Trade and Commerce Agency, the Chancellor of the California Community Colleges with the consent of the Board of Governors, and the Superintendent of Public Instruction, with the consent of the State Board of Education, shall enter into a memorandum of understanding to develop and maintain a plan including a schedule to do the following:

(1) (A) Develop a state workforce development plan to create an integrated, high-quality workforce development system out of the current array of job training and vocational education programs in order to prepare emerging, transitional, and current workers to be employed in the state's global economy. The plan shall serve as a framework for the development of public policy, fiscal investment, and operation of all state workforce education and training programs.

(B) The plan, which shall be updated every five years, shall, at a minimum, include all of the following:

(i) Long-term goals for the state's workforce development system.

(ii) Short-term objectives and benchmarks that the state will use to measure its progress towards meeting the state's goals for the state workforce development system and its programs.

(iii) Identification of the role each institution and program plays in the statewide system and mechanism of articulation among programs.

(iv) A strategy for assessing unmet workforce preparation needs and areas of duplicative services and a description of measures to assure

coordination, eliminate duplication, and maximize or redirect funding to more effectively deliver services to meet the state's workforce development needs.

(v) A strategy for consolidating multiple planning processes.

(vi) A strategy with benchmarks for implementing a system of universal access to workforce development services ensuring access to comprehensive services in all rural and urban areas of the state.

(C) The plan shall be developed through a collaborative process that shall include review and input by state, regional, and local workforce education and training providers, private industry councils, and representatives of business and labor.

(2) Initiate a competitive process to select a minimum of five regional education, workforce preparation, and economic development collaboratives, known as regional collaboratives, that will receive financial and program incentives to develop local partnerships to maximize the delivery of employment, training, and education services. These partnerships shall collaborate in the development of shared systems to improve their efficiency and effectiveness in delivering workforce development services.

(3) Identify new and redirected resources, federal and state waivers, and legislative changes necessary to enhance the effectiveness of regional collaboratives.

(b) Regional collaboratives shall have representation from the following public and private entities:

(1) The Employment Development Department.

(2) The local Job Training Partnership Act administrative entity.

(3) Community college districts.

(4) Local school districts, including those that provide adult education and regional occupational centers or programs.

(5) Regional occupational centers serving adults.

(6) Entities administering local public assistance welfare-to-work programs.

(7) Local economic development organizations.

(8) The private sector, including both business and labor.

In addition, the competitive selection process shall emphasize the expectation that these regional collaboratives will have broad representation of all public, private, and nonprofit agencies that have an interest in education, economic development, welfare-to-work, and workforce development.

(c) Regional collaboratives shall be selected and shall receive financial and program incentives effective July 1, 1998.

(d) From existing state and federal funds available for expenditure for the purposes of this section, the state partners shall identify five million dollars (\$5,000,000) per year for each of three years for distribution to

a minimum of five regional collaboratives, in order to create systemic change that results in increased collaboration and service delivery within each region.

SEC. 192. Section 2575 of the Vehicle Code is repealed.

SEC. 193. Section 4750.2 of the Vehicle Code is repealed.

SEC. 194. Section 4750.4 of the Vehicle Code is amended to read: 4750.4. Information provided by an insurer to the department pursuant to Section 11580.10 of the Insurance Code and former Section 4750.2, as added by Chapter 946 of the Statutes of 1991, shall be made available only to law enforcement agencies for law enforcement purposes.

SEC. 195. Section 5011.5 of the Vehicle Code is amended to read:

5011.5. Every limousine operated by a charter-party carrier, as defined by Section 5371.4 of the Public Utilities Code, shall display a special identification license plate issued pursuant to Section 5385.6 of that code.

This section shall become operative on July 1, 1995.

SEC. 196. Section 14112 of the Vehicle Code is amended to read:

14112. (a) All matters in a hearing not covered by this chapter shall be governed, as far as applicable, by Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) Subdivision (a) of Section 11425.30 of the Government Code does not apply to a proceeding for issuance, denial, revocation, or suspension of a driver's license pursuant to this division.

SEC. 197. Section 21370.1 of the Vehicle Code is repealed.

SEC. 198. Section 32005 of the Vehicle Code is repealed.

SEC. 199. Section 34508.5 of the Vehicle Code is repealed.

SEC. 200. Section 40001 of the Vehicle Code is amended to read:

40001. (a) It is unlawful for the owner, or any other person, employing or otherwise directing the driver of any vehicle to cause the operation of the vehicle upon a highway in any manner contrary to law.

(b) It is unlawful for an owner to request, cause, or permit the operation of any vehicle that is any of the following:

(1) Not registered or for which any fee has not been paid under this code.

(2) Not equipped as required in this code.

(3) Not in compliance with the size, weight, or load provisions of this code.

(4) Not in compliance with the regulations promulgated pursuant to this code, or with applicable city or county ordinances adopted pursuant to this code.

(5) Not in compliance with the provisions of Part 5 (commencing with Section 43000) of Division 26 of the Health and Safety Code and the rules and regulations of the State Air Resources Board.

(c) Any employer who violates an out-of-service order, that complies with Section 396.9 of Title 49 of the Code of Federal Regulations, or who knowingly requires or permits a driver to violate or fail to comply with that out-of-service order, is guilty of a misdemeanor.

(d) An employer who is convicted of allowing, permitting, requiring, or authorizing a driver to operate a commercial motor vehicle in violation of any statute or regulation pertaining to a railroad-highway grade crossing is subject to a fine of not more than ten thousand dollars (\$10,000).

(e) Whenever a violation is chargeable to the owner or lessee of a vehicle pursuant to subdivision (a) or (b), the driver shall not be arrested or cited for the violation unless the vehicle is registered in a state or country other than California, or unless the violation is for an offense that is clearly within the responsibility of the driver.

(f) Whenever the owner, or lessee, or any other person is prosecuted for a violation pursuant to this section, the court may, on the request of the defendant, take appropriate steps to make the driver of the vehicle, or any other person who directs the loading, maintenance, or operation of the vehicle, a codefendant. However, the court may make the driver a codefendant only if the driver is the owner or lessee of the vehicle, or the driver is an employee or a contractor of the defendant who requested the court to make the driver a codefendant. If the codefendant is held solely responsible and found guilty, the court may dismiss the charge against the defendant.

(g) In any prosecution under this section, it is a rebuttable presumption that any person who gives false or erroneous information in a written certification of actual gross cargo weight has directed, requested, caused, or permitted the operation of a vehicle in a manner contrary to law in violation of subdivision (a) or (b), or both.

SEC. 201. Section 42007 of the Vehicle Code is amended to read:

42007. (a) The clerk of the court shall collect a fee from every person who is ordered or permitted to attend a traffic violator school pursuant to Section 42005 or who attends any other court-supervised program of traffic safety instruction. The fee shall be in an amount equal to the total bail set forth for the eligible offense on the uniform countywide bail schedule. As used in this subdivision, "total bail" means the amount established pursuant to Section 1269b of the Penal Code in accordance with the Uniform Statewide Bail Schedule adopted by the Judicial Council, including all assessments, surcharges, and penalty amounts. Where multiple offenses are charged in a single notice to appear, the "total bail" is the amount applicable for the greater of the qualifying offenses. However, the court may determine a lesser fee under this subdivision upon a showing that the defendant is unable to pay the full amount.

The fee shall not include the cost, or any part thereof, of traffic safety instruction offered by the school or other program.

(b) Revenues derived from the fee collected under this section shall be deposited in accordance with Section 68084 of the Government Code in the general fund of the county and, as may be applicable, distributed as follows:

(1) In any county in which a fund is established pursuant to Section 76100 or 76101 of the Government Code, the sum of one dollar (\$1) for each fund so established shall be deposited with the county treasurer and placed in that fund.

(2) In any county that has established a Maddy Emergency Medical Services Fund pursuant to Section 1797.98a of the Health and Safety Code, an amount equal to the sum of each two dollars (\$2) for every seven dollars (\$7) that would have been collected pursuant to Section 76000 of the Government Code shall be deposited in that fund. Nothing in the act that added this paragraph shall be interpreted in a manner that would result in either of the following:

(A) The utilization of penalty assessment funds that had been set aside, on or before January 1, 2000, to finance debt service on a capital facility that existed before January 1, 2000.

(B) The reduction of the availability of penalty assessment revenues that had been pledged, on or before January 1, 2000, as a means of financing a facility which was approved by a county board of supervisors, but on January 1, 2000, is not under construction.

(3) The amount of the fee that is attributable to Section 70372 of the Government Code shall be transferred pursuant to subdivision (f) of that section.

(c) For fees resulting from city arrests, an amount equal to the amount of base fines that would have been deposited in the treasury of the appropriate city pursuant to paragraph (3) of subdivision (b) of Section 1463.001 of the Penal Code shall be deposited in the treasury of the appropriate city.

(d) As used in this section, "court-supervised program" includes, but is not limited to, any program of traffic safety instruction the successful completion of which is accepted by the court in lieu of adjudicating a violation of this code.

(e) The clerk of the court, in a county that offers traffic school shall include in any courtesy notice mailed to a defendant for an offense that qualifies for traffic school attendance the following statement:

NOTICE: If you are eligible and decide not to attend traffic school your automobile insurance may be adversely affected.

SEC. 202. Section 1061 of the Water Code is repealed.

SEC. 203. Section 12226.1 of the Water Code is repealed.

SEC. 204. Section 12228 of the Water Code is repealed.

SEC. 205. Section 225.05 of the Welfare and Institutions Code is repealed.

SEC. 206. Section 398 of the Welfare and Institutions Code is repealed.

SEC. 207. Section 503 of the Welfare and Institutions Code is amended to read:

503. Programs funded under this article shall adopt and pursue the following policies:

(a) Each participating law enforcement agency shall do all of the following:

(1) Gather data on identified serious habitual offenders.

(2) Compile data into a usable format for law enforcement, prosecutors, probation officers, schools, and courts pursuant to an interagency agreement.

(3) Regularly update data and disseminate data to juvenile justice system agencies, as needed.

(4) Establish local policies in cooperation with the prosecutor, the probation officer, schools, and the juvenile court regarding data collection, arrest, and detention of serious habitual offenders.

(5) Provide support and assistance to other agencies engaged in the program.

(b) Each participating district attorney's office shall do all of the following:

(1) File petitions based on the most serious provable offenses of each arrest of a serious habitual offender.

(2) Use all reasonable prosecutorial efforts to resist the release, where appropriate, of the serious habitual offender at all stages of the prosecution.

(3) Seek an admission of guilt on all offenses charged in the petition against the offender. The only cases in which the prosecutor may request the court to reduce or dismiss the charges shall be cases in which the prosecutor decides there is insufficient evidence to prove the people's case, the testimony of a material witness cannot be obtained or a reduction or dismissal will not result in a substantial change in sentence. In those cases, the prosecutor shall file a written declaration with the court stating the specific factual and legal basis for such a reduction or dismissal and the court shall make specific findings on the record of its ruling and the reasons therefor.

(4) Vertically prosecute all cases involving serious habitual offenders, whereby the prosecutor who makes the initial filing decision or appearance on such a case shall perform all subsequent court

appearances on that case through its conclusion, including the disposition phase.

(5) Make all reasonable prosecutorial efforts to persuade the court to impose the most appropriate sentence upon such an offender at the time of disposition. As used in this paragraph, "most appropriate sentence" means any disposition available to the juvenile court.

(6) Make all reasonable prosecutorial efforts to reduce the time between arrest and disposition of the charge.

(7) Act as liaison with the court and other criminal justice agencies to establish local policies regarding the program and to ensure interagency cooperation in the planning and implementation of the program.

(8) Provide support and assistance to other agencies engaged in the program.

(c) Each participating probation department shall do all of the following:

(1) Cooperate in gathering data for use by all participating agencies pursuant to interagency agreement.

(2) Detain minors in custody who meet the detention criteria set forth in Section 628.

(3) Consider the data relating to serious habitual offenders when making all decisions regarding the identified individual and include relevant data in written reports to the court.

(4) Use all reasonable efforts to file violations of probation pursuant to Section 777 in a timely manner.

(5) Establish local policies in cooperation with law enforcement, the district attorney, schools, and the juvenile court regarding the program and provide support and assistance to other agencies engaged in the program.

(d) Each participating school district shall do all of the following:

(1) Cooperate in gathering data for use by all participating agencies pursuant to interagency agreement. School district access to records and data shall be limited to that information that is otherwise authorized by law.

(2) Report all crimes that are committed on campus by serious habitual offenders to law enforcement.

(3) Report all violations of probation committed on campus by serious habitual offenders to the probation officer or his or her designee.

(4) Provide educational supervision and services appropriate to serious habitual offenders attending schools.

(5) Establish local policies in cooperation with law enforcement, the district attorney, probation and the juvenile court regarding the program and provide support and assistance to other agencies engaged in the program.

SEC. 208. Section 898.5 of the Welfare and Institutions Code is repealed.

SEC. 209. Section 1120 of the Welfare and Institutions Code is amended to read:

1120. (a) It is the intent of the Legislature to insure an appropriate educational program for wards committed to the Department of the Youth Authority. The objective of the program shall be to improve the academic, vocational, and life survival skills of each ward so as to enable these wards to return to the community as productive citizens.

(b) The department shall assess the educational needs of each ward upon commitment and at least annually thereafter until released on parole. The initial assessment shall include a projection of the academic, vocational, and psychological needs of the ward and shall be used both in making a determination as to the appropriate educational program for the ward and as a measure of progress in subsequent assessments of the educational development of the ward.

The educational program of the department shall be responsive to the needs of all wards, including those who are educationally handicapped or limited-English-speaking wards.

(c) The statewide educational program of the department shall include, but shall not be limited to, all of the following courses of instruction:

(1) Academic preparation in the areas of verbal communication skills, reading, writing, and arithmetic.

(2) Vocational preparation including vocational counseling, training in marketable skills, and job placement assistance.

(3) Life survival skills, including preparation in the areas of consumer economics, family life, and personal and social adjustment.

All of the aforementioned courses of instruction shall be offered at each institution within the jurisdiction of the department except camps and those institutions whose primary function is the initial reception and classification of wards. At such camps and institutions the educational program shall take into consideration the purpose and function of the camp and institutional program.

SEC. 210. Section 1756.1 of the Welfare and Institutions Code is repealed.

SEC. 211. Section 1906 of the Welfare and Institutions Code is repealed.

SEC. 212. Section 1914 of the Welfare and Institutions Code is repealed.

SEC. 213. Section 4026 of the Welfare and Institutions Code is repealed.

SEC. 214. Section 4390 of the Welfare and Institutions Code is amended to read:

4390. The Legislature finds that an evaluation of program effectiveness is both desirable and necessary and accordingly requires the following:

No later than June 30, 1993, and each year thereafter through the term of the grant award, each local education agency that receives a matching grant under this part shall submit a report to the director that shall include the following:

(a) An evaluation of the effectiveness of the local educational agency in achieving stated goals.

(b) A description of the problems encountered in the design and operation of the school-based early mental health intervention and prevention services program, including, but not limited to, identification of any federal, state, or local regulations that impeded program implementation.

(c) The number of eligible pupils served by the program.

(d) The number of additional eligible pupils who have not been served.

(e) An evaluation of the impact of the school-based early mental health intervention and prevention services program on the local educational agency and the children completing the program. The program shall be deemed successful if at least 75 percent of the children who complete the program show an improvement in at least one of the four following areas:

(1) Learning behaviors.

(2) Attendance.

(3) School adjustment.

(4) School-related competencies. Improvement shall be compared with comparable children in that school district that do not complete or participate in the program.

(f) An accounting of local budget savings, if any, resulting from the implementation of the school-based early mental health intervention and prevention services program.

(g) A revised plan of how the proposed school-based early mental health intervention and prevention services program will be continued after the state matching grant has expired, including a list of cooperative entities that will assist in providing the necessary funds and services. Beginning in 1993, this shall, to the extent information is provided by the local mental health department, include a description of the availability of federal financial participation under Title XIX of the federal Social Security Act (42 U.S.C. 1396 and following) through a cooperative agreement or contract with the local mental health department. The county office of education may submit the report on the availability of federal financial participation on behalf of the participating local education agencies with the county. In any county in

which there is an interagency children's services coordination council established pursuant to Section 18986.10, a report submitted pursuant to this paragraph shall be submitted to the council for its review and approval.

SEC. 215. Section 4506 of the Welfare and Institutions Code is repealed.

SEC. 216. Section 4519.5 of the Welfare and Institutions Code is repealed.

SEC. 217. Section 4637 of the Welfare and Institutions Code is repealed.

SEC. 218. Section 4681.2 of the Welfare and Institutions Code is repealed.

SEC. 219. Section 4689.1 of the Welfare and Institutions Code is amended to read:

4689.1. (a) The Legislature declares that it places a high priority on providing opportunities for adults with developmental disabilities to live with families approved by family home agencies and to receive services and supports in those settings as determined by the individual program plan.

(b) For purposes of this section, "family home" means a home that is owned, leased, or rented by, and is the family residence of, the family home provider or providers, and in which services and supports are provided to a maximum of two adults with developmental disabilities regardless of their degree of disability, and who do not require continuous skilled nursing care.

(c) For purposes of this section, "family home agency" means a private not-for-profit agency that is vended to do all of the following:

(1) Recruit, approve, train, and monitor family home providers.

(2) Provide social services and in-home support to family home providers.

(3) Assist adults with developmental disabilities in moving into approved family homes.

(d) For purposes of ensuring that regional centers may secure high quality services that provide supports in natural settings and promote inclusion and meaningful participation in community life for adults with developmental disabilities, the department shall promulgate regulations for family home agencies and family homes that shall include, but not be limited to, standards and requirements related to all of the following:

(1) Selection criteria for regional centers to apply in vending family home agencies, including, but not limited to, all of the following:

(A) The need for service.

(B) The experience of the agency or key personnel in providing the same or comparable services.

(C) The reasonableness of the agency's overhead.

(D) The capability of the regional center to monitor and evaluate the vendor.

(2) Vendorization.

(3) Operation of family home agencies, including, but not limited to, all of the following:

(A) Recruitment.

(B) Approval of family homes.

(C) Qualifications, training, and monitoring of family home providers.

(D) Assistance to consumers in moving into approved family homes.

(E) The range of services and supports to be provided.

(F) Family home agency staffing levels, qualifications, and training.

(4) Program design.

(5) Program and consumer records.

(6) Family homes.

(7) (A) Rates of payment for family home agencies and approved family home providers. In developing the rates pursuant to regulation, the department may require family home agencies and family homes to submit program cost or other information, as determined by the department.

(B) Regional center reimbursement to family home agencies shall not exceed rates for similar individuals when residing in other types of out-of-home care established pursuant to Section 4681.1.

(8) The department and regional center's monitoring and evaluation of the family home agency and approved homes, which shall be designed to ensure that services do all of the following:

(A) Conform to applicable laws and regulations and provide for the consumer's health and well-being.

(B) Assist the consumer in understanding and exercising his or her individual rights.

(C) Are consistent with the family home agency's program design and the consumer's individual program plan.

(D) Maximize the consumer's opportunities to have choices in where he or she lives, works, and socializes.

(E) Provide a supportive family home environment, available to the consumer 24 hours a day, that is clean, comfortable, and accommodating to the consumer's cultural preferences, values, and lifestyle.

(F) Are satisfactory to the consumer, as indicated by the consumer's quality of life as assessed by the consumer, his or her family, and if appointed, conservator, or significant others, or all of these, as well as by evaluation of outcomes relative to individual program plan objectives.

(9) Monthly monitoring visits by family home agency social service staff to approved family homes.

(10) Procedures whereby the regional center and the department may enforce applicable provisions of law and regulation, investigate allegations of abuse or neglect, and impose sanctions on family home agencies and approved family homes, including, but not limited to, all of the following:

(A) Requiring movement of a consumer from a family home under specified circumstances.

(B) Termination of approval of a family home.

(C) Termination of the family home agency's vendorization.

(11) Appeal procedures.

(e) Each adult with developmental disabilities placed in a family home shall have the rights specified in this division, including, but not limited to, the rights specified in Section 4503.

(f) Prior to placement in a family home of an adult with developmental disabilities who has a conservator, consent of the conservator shall be obtained.

(g) The adoption of any emergency regulations to implement this section that are filed with the Office of Administrative Law within one year of the date on which the act that added this section took effect shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare.

SEC. 220. Section 4692 of the Welfare and Institutions Code is repealed.

SEC. 221. Section 4751 of the Welfare and Institutions Code is repealed.

SEC. 222. Section 4838 of the Welfare and Institutions Code is repealed.

SEC. 222.1. Section 4840 of the Welfare and Institutions Code is repealed.

SEC. 223. Section 4842 of the Welfare and Institutions Code is repealed.

SEC. 224. Section 5719.5 of the Welfare and Institutions Code is amended to read:

5719.5. (a) Notwithstanding any other provision of state law, and to the extent permitted by federal law, the State Department of Mental Health may, in consultation with the State Department of Health Services, field test major components of a capitated, integrated service system of Medi-Cal mental health managed care in not less than two, and not more than five participating counties.

(b) County participation in the field test shall be at the counties' option.

(c) Counties eligible to participate in the field test described in subdivision (a) shall include either of the following:

(1) Any county with an existing county organized health system.

(2) Any county that has been designated for the development of a new county organized health system.

(d) The State Department of Mental Health, in consultation with the State Department of Health Services, the counties selected for field testing, and groups representing mental health clients, their families and advocates, county mental health directors, and public and private mental health professionals and providers, shall develop, for the purpose of the field test, major components for an integrated, capitated service system of Medi-Cal mental health managed care, including, but not limited to, all of the following:

(1) (A) A definition of medical necessity.

(B) The preliminary definition developed pursuant to this paragraph shall be submitted to the Legislature no later than February 1, 1994.

(2) Protocols for facilitating access and coordination of mental health, physical health, educational, vocational, and other supportive services for persons receiving services through the field test.

(3) Procedures for promoting quality assurance, performance monitoring measures and outcome evaluation, including measures of client satisfaction, and procedures for addressing beneficiary grievances concerning service denials, changes, or terminations.

(e) Counties participating in the field test shall report to the State Department of Mental Health as the department deems necessary.

(f) Counties participating in the field test shall do both of the following:

(1) (A) Explore, in consultation with the State Department of Mental Health, the State Department of Health Services, and the California Mental Health Directors Association, rates for capitated, integrated Medi-Cal mental health managed care systems, using an actuarially sound ratesetting methodology.

(B) These rates shall be evaluated by the State Department of Mental Health and the State Department of Health Services to determine their fiscal impact, and shall result in no increase in cost to the General Fund, compared with the cost that would occur under the existing organization of Medi-Cal funded mental health services, except for caseload growth and price increases as included in the Medi-Cal estimates prepared by the State Department of Health Services and approved by the Department of Finance. In evaluating the fiscal impact of these rates, the departments shall take into account any shift in clients between Medi-Cal programs in which the nonfederal match is funded by state funds and those in which the match is funded by local funds.

(2) Demonstrate the appropriate fiscal relationship between county organized health systems for the federal medicaid program and integrated, capitated Medi-Cal mental health managed care programs.

SEC. 225. Section 5734 of the Welfare and Institutions Code is repealed.

SEC. 226. Section 5914 of the Welfare and Institutions Code is repealed.

SEC. 227. Section 10627 of the Welfare and Institutions Code is repealed.

SEC. 228. Section 11004.5 of the Welfare and Institutions Code is repealed.

SEC. 229. Section 11008 of the Welfare and Institutions Code is amended to read:

11008. (a) In order that recipients of public assistance may become self-supporting and productive members of their communities, it is essential that they be permitted to earn money without a proportionate deduction in their aid grants. It is the intention of the Legislature to promote this objective and the department, in implementing public assistance laws, is directed to do so in the light of this objective.

(b) To the extent required by federal law, earned income of a recipient of aid under any public assistance program for which federal funds are available shall not be considered income or resources of the recipient, and shall not be deducted from the amount of aid to which the recipient would otherwise be entitled. In computing the amount of income determined to be available to support a recipient, the value of currently used resources shall be included, except as provided in Section 11018.

(c) This section does not apply to recipients under Chapter 3 (commencing with Section 12000) of this part.

SEC. 230. Section 11008.19 of the Welfare and Institutions Code is amended to read:

11008.19. (a) (1) To the degree child care and development services administered by the State Department of Education pursuant to Chapter 2 (commencing with Section 8200) of Part 6 of the Education Code are used to serve families receiving aid to families with dependent children that are eligible for child care under the AFDC program, the department and the State Department of Education, in consultation with the county welfare departments, shall establish a system for documenting child care usage by this population so the state can claim the maximum amount to which it is entitled under Title IV-A of the Social Security Act, contained in Part A (commencing with Section 601) of Subchapter 4 of Chapter 7 of Title 42 of the United States Code.

(2) To the extent permitted by federal law, the department and the State Department of Education shall coordinate their efforts and claim federal financial participation pursuant to Title IV-A of the Social Security Act.

(3) Upon the approval of the Superintendent of Public Instruction, the department, and the State Department of Education shall enter into an

interagency agreement to transfer Title IV-A funds from the department to the State Department of Education and to ensure that all federal requirements are met in carrying out the program made possible by the receipt of Title IV-A funds.

(4) The system established pursuant to paragraph (1) shall be implemented only to the extent that its implementation does not result in an overall increase in expenditures from the General Fund.

(b) (1) Title IV-A funds received pursuant to paragraph (1) of subdivision (a) shall be used to expand child care and development services in accordance with the interagency agreement required by paragraph (3) of subdivision (a).

(2) In no case shall Title IV-A funds received pursuant to this section be used to supplant existing state funds and cause the state to violate the maintenance of effort requirements for the federal Child Care and Development Block Grant and the Title IV-A "at-risk" programs. Funds made available pursuant to subdivision (a) shall be expended by the departments to support the following:

(A) Any additional administrative costs associated with documenting and claiming federal reimbursement incurred by the department, the State Department of Education, county welfare offices, and child care and development services contractors.

(B) Expanded child care and development services to families receiving AFDC benefits, in the following order of priority:

(i) AFDC families in approved education and training programs, except those receiving services under Article 3.2 (commencing with Section 11320) of Chapter 2.

(ii) AFDC applicants or recipients who choose the Alternative Assistance Program pursuant to Section 11280.

(iii) All other AFDC recipients who meet the eligibility criteria for federally funded Title IV-A child care pursuant to this section.

(c) (1) Notwithstanding Section 8278 of the Education Code and Item 6110-196-001 of the Budget Act of 1991 (Chapter 118 of the Statutes of 1991), the Superintendent of Public Instruction may authorize the expenditure of not more than one million dollars (\$1,000,000) in child care carryover funds by the State Department of Education and the State Department of Social Services, through an interagency agreement, for the purposes of implementing the program specified in this section in the 1991-92 and 1992-93 fiscal years.

(2) Prior to making the authorization under paragraph (1), the Superintendent of Public Instruction shall notify the appropriate policy and fiscal committees of the Legislature of the amounts to be expended pursuant to this subdivision.

(3) Funds that may be expended pursuant to this subdivision shall be expended for the purpose of supporting administrative costs associated

with claiming federal reimbursement for families with dependent children receiving services pursuant to Chapter 2 (commencing with Section 8200) of Part 6 of the Education Code. In the 1993–94 fiscal year and subsequent fiscal years, state administrative funds for both departments shall be appropriated in the annual Budget Act pursuant to subdivision (b).

(d) For purposes of this section, “Title IV-A funds” means federal money received pursuant to Part A (commencing with Section 601) of Subchapter 4 of Chapter 7 of Title 42 of the United States Code.

SEC. 231. Section 11213 of the Welfare and Institutions Code is amended to read:

11213. For the purpose of developing a more efficient, effective, and equitable Aid to Families With Dependent Children-Foster Care program, the department shall develop:

(a) A management information database providing expenditure and caseload characteristics information, such as method of entry into AFDC-FC, average cost of placement, type of facility used for placement, and average length of stay in placement.

(b) A quality control system for AFDC-FC, and recommendations to the Legislature regarding resources required for implementation of the system by October 1, 1980.

(c) Recommendations to the Legislature regarding the following:

(1) A system or systems for establishing payment levels for children eligible to the AFDC-FC program.

(2) Plans and resources required for implementation of the selected system or systems by July 1, 1981.

(d) Recommendations to the Legislature regarding defining that segment of the population to be served by the AFDC-FC program, and impact of such definition on the current AFDC-FC population.

SEC. 232. Section 11215 of the Welfare and Institutions Code is amended to read:

11215. (a) The department, with the advice and assistance of the County Welfare Directors’ Association, the Chief Probation Officers’ Association, the California Conference of Local Mental Health Directors, and foster care providers, shall develop performance standards and outcome measures for determining the appropriateness of out-of-home care placements made under the AFDC-Foster Care program and for the effective and efficient administration of the AFDC-Foster Care program. These performance standards shall link county administration of the AFDC-Foster Care program to the state funding of the AFDC-Foster Care program as specified in subdivision (c) of Section 15200.

(b) (1) The performance standards required by this section shall be developed by July 1, 1993, and shall use the Child Welfare Services Case

Management System as the database by which to collect county specific information. The performance standards shall be designed to measure each county's performance in all of the areas over which the county has some degree of influence and other areas of measurable program performance that the department can demonstrate as areas over which county welfare and probation departments have adequate resources and can demonstrate meaningful managerial or administrative influence. These areas may include accuracy of eligibility determination, stability of foster care placement, appropriateness of level of care provided, compliance with statutory timeliness, and compliance with data reporting requirements. The performance standards system shall include, but not be limited to, outcome measures reflective of county placing agencies' use of the Level of Care Assessment Instrument specified in Section 11467.

(2) The performance standards system shall be implemented in conjunction with the implementation of the Child Welfare Services Case Management System. If the Child Welfare Services Case Management System is not implemented by July 1, 1993, as specified in Section 16501.5, the implementation of the performance standards system, as specified in paragraphs (4) and (5), shall be moved to a date two years after the date of implementation of the Child Welfare Services Case Management System.

(3) Regulations regarding the implementation of the performance standards system shall be adopted no later than July 1, 1994. These regulations shall specify both the performance standards system and the manner by which the percentage of state reimbursement to each county for the AFDC-Foster Care program shall be determined.

(4) Effective July 1, 1995, any county that does not meet the performance standards shall be liable for a decrease in the percentage of state reimbursement for the AFDC-Foster Care program to the amounts specified in paragraph (2) of subdivision (c) of Section 15200. This amount will be determined by the department at the start of each fiscal year, beginning with fiscal year 1995-96, pursuant to regulations developed as specified in paragraph (4).

SEC. 233. Section 11406 of the Welfare and Institutions Code is repealed.

SEC. 234. Section 11469 of the Welfare and Institutions Code is amended to read:

11469. (a) By July 1, 1993, the department, in consultation with group home providers, the County Welfare Directors' Association, the Chief Probation Officers' Association, the California Conference of Local Mental Health Director and the State Department of Mental Health, shall develop performance standards and outcome measures for determining the effectiveness of the care and supervision, as defined in

subdivision (b) of Section 11460, provided by group homes under the AFDC-FC program pursuant to Sections 11460 and 11462. These standards shall be designed to measure group home program performance for the client group that the group home program is designed to serve.

(1) The performance standards and outcome measures shall be designed to measure the performance of group home programs in areas over which the programs have some degree of influence, and in other areas of measurable program performance that the department can demonstrate are areas over which group home programs have meaningful managerial or administrative influence.

(2) These standards and outcome measures shall include, but are not limited to, the effectiveness of services provided by each group home program, and the extent to which the services provided by the group home assist in obtaining the child welfare case plan objectives for the child.

(3) In addition, when the group home provider has identified as part of its program for licensing, ratesetting, or county placement purposes, or has included as a part of a child's case plan by mutual agreement between the group home and the placing agency, specific mental health, education, medical, and other child-related services, the performance standards and outcome measures may also measure the effectiveness of those services.

(b) Regulations regarding the implementation of the group home performance standards system required by this section shall be adopted no later than one year prior to implementation. The regulations shall specify both the performance standards system and the manner by which the AFDC-FC rate of a group home program shall be adjusted if performance standards are not met.

(c) Except as provided in subdivision (d), effective July 1, 1995, group home performance standards shall be implemented. Any group home program not meeting the performance standards shall have its AFDC-FC rate, set pursuant to Section 11462, adjusted according to the regulations required by this section.

(d) Effective July 1, 1995, group home programs shall be classified at rate classification level 13 or 14 only if all of the following are met:

(1) The program generates the requisite number of points for rate classification level 13 or 14.

(2) The program only accepts children with special treatment needs as determined through the assessment process pursuant to subdivision (b) of Section 11467.

(3) The program meets the performance standards designed pursuant to this section.

(e) Notwithstanding subdivision (c), the group home program performance standards system shall not be implemented prior to the implementation of the AFDC-FC performance standards system specified in Section 11215.

SEC. 235. Section 11476.6 of the Welfare and Institutions Code is amended to read:

11476.6. Each local child support agency shall submit to the department data revealing the range and median time periods by which notification of the receipt of child support payments collected on behalf of a family receiving aid under this chapter is made to the local welfare department. The data shall contain the number and percentage of cases in which the payments described herein are conveyed within the time period prescribed by federal law.

SEC. 236. Section 12312 of the Welfare and Institutions Code is repealed.

SEC. 237. Section 14005.6 of the Welfare and Institutions Code is amended to read:

14005.6. (a) The Legislature finds and declares as follows:

(1) Under federal law, minors living at home with their families may not be eligible for the SSI and Medicaid programs.

(2) Under the Federal Budget Reconciliation Act of 1981, however, states may apply for a Section 1915(c) waiver to allow a person to be eligible for SSI and Medicaid when medical and social services provided in the home can be shown to be less costly than services provided in an institution.

(3) Whenever possible, medical and social services should be provided in the least restrictive setting and at the lowest cost to the programs involved.

(4) The State Department of Health Services has already successfully applied for the Section 1915(c) waiver as applied to certain defined populations of developmentally disabled, elderly, and medically acute clients.

(b) The State Director of Health Services shall apply for additional waivers when appropriate to expand the number and types of persons who will be eligible for in-home services.

SEC. 238. Section 14026.5 of the Welfare and Institutions Code is amended to read:

14026.5. (a) The State Director of Health Services may issue Medi-Cal cards to Medi-Cal fraud investigators for the purpose of conducting investigations of Medi-Cal fraud, or a violation of the Medical Practice Act as set forth in Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code upon written request to the State Director of Health Services, or his or her designee, from the head of the requesting agency stating the purpose of the

investigation. The request shall be based upon a specific complaint or information alleging Medi-Cal fraud. The request shall be based upon a specific complaint or information from an outside agency pursuant to its standard procedure for referring cases to another agency where there is suspicion of Medi-Cal fraud.

(b) (1) Upon a complaint by any individual alleging information creating a reasonable suspicion that any person is engaging in Medi-Cal fraud, the State Director of Health Services shall issue Medi-Cal cards for the purpose of conducting investigations of Medi-Cal fraud, or a violation of the Medical Practice Act as set forth in Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code, upon an order of a magistrate issued upon a showing of reasonable suspicion that the person being investigated has committed or is committing Medi-Cal fraud or a violation of the Medical Practice Act as set forth in Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code.

(2) For purposes of this section, "reasonable suspicion" means that a peace officer subjectively entertains such a suspicion and that it is objectively reasonable for him or her to do so. The facts shall be those that would cause any reasonable peace officer in a like position drawing when appropriate on his or her training and experience, to suspect the same criminal activity and the same involvement by the person in question. A showing of reasonable suspicion may be made either by written statement under penalty of perjury or by oral statement taken under oath, recorded and transcribed.

(c) Nothing in this section shall be construed to mean that it is the exclusive method for conducting investigations for Medi-Cal fraud or for violations of the Medical Practice Act as set forth in Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code.

(d) The State Department of Health Services shall report to the Legislature every six months commencing June 1, 1981, on the utilization of Medi-Cal cards issued pursuant to this section. The report shall include, among other matters, a description of the types of criminal investigations conducted pursuant thereto.

SEC. 239. Section 14041.5 of the Welfare and Institutions Code is amended to read:

14041.5. (a) The department shall develop, disseminate, and update, on a periodic basis, claims preparation and processing software programs that may be used on computers at individual provider or billing service sites. The software shall be made available, to the extent feasible, for the most common computers used in the provider community for use, on an optional basis, by clerical or billing personnel to facilitate the preparation and submission of Medi-Cal claims for services rendered.

(b) The software programs specified in subdivision (a) shall, to the extent possible:

(1) Contain all necessary validity edits utilized by the fiscal intermediary.

(2) Be designed to reasonably reduce common submission and billing errors.

(3) Contain features that provide options for the provider to use provider-developed files to reduce data entry requirements and improve reporting accuracy.

(4) Provide, at the provider's discretion, for the electronic or paper transmission of claims to the Medi-Cal fiscal intermediary.

(c) The department shall consult with affected provider groups prior to developing, disseminating, and updating claims preparation and processing software pursuant to this section.

(d) The department shall report to the Chairpersons of the Senate Health and Human Services Committee and Assembly Health Committee by April 1, 1990, on a plan and timetable for implementing this section. The plan and timetable shall identify provider groups for which the department plans to develop, disseminate, and update claims preparation and processing software.

(e) Notwithstanding the plan and timetable required by subdivision (d), the department shall develop and begin disseminating claims processing software programs to physician providers no later than January 1, 1991.

(f) The department shall, as part of implementing this section, provide technical assistance to providers, including, but not limited to, a user hotline and appropriate training materials. These materials shall cover the installation of the programs, use of the software to enter Medi-Cal claims data, and submission procedures.

(g) The software programs for the submission of Medi-Cal claims shall be made available to all interested parties for a reasonable initial fee, plus an annual subscription fee for updates, maintenance, and support provided to users. Fees shall be set so as to recover, as nearly as possible, the development, distribution, and ongoing support costs of software programs, instructional materials, or subsequent updates.

(h) Third-party vendors may obtain and enhance these programs for resale and provisions of value-added services to Medi-Cal providers. However, the state or any of its officials, employees, or agents shall bear no liability for software provided through any third party that has been altered or misused by any third party.

(i) Neither the state nor any of its officials, employees, or agents shall be responsible for any of the following:

(1) A provider's failure to meet Medi-Cal documentation and billing requirements, including timely billing pursuant to Section 14115.

(2) Alteration or misuse of the software in the submission of claims to the Medi-Cal program.

(3) Use of the software for any purpose other than the submission of claims to the Medi-Cal program.

(4) This subdivision shall not apply to any failure to meet Medi-Cal documentation and billing requirements that is substantiated as resulting from the use of software that is directly provided by the department and that contains proven flaws or defects that significantly contribute to the failure to meet those requirements.

(j) A provider or third party's eligibility to bill claims electronically by using software programs made available pursuant to this section shall be governed by Section 14040 and Section 14040.5, and any rules and regulations adopted by the director pursuant to these sections.

SEC. 240. Section 14087.2 of the Welfare and Institutions Code is amended to read:

14087.2. It is the intent of the Legislature that children's hospitals need not contract under the provisions of this article until October 31, 1984. Services provided by these hospitals prior to November 1, 1984, shall be reimbursed according to the state plan in effect on January 1, 1984. Children's hospitals are defined as those hospitals where 30 percent of the infants and children served by the single institution qualify for Medi-Cal payment systems and the institution serves primarily children.

If a children's hospital elects to contract pursuant to this article in the 1982-83 or 1983-84 fiscal year, the negotiator shall give consideration to the special services provided in this hospital, including those services provided to children. The California Medical Assistance Commission shall continue to extend this consideration to these hospitals following the 1983-84 fiscal year.

SEC. 240.1. Section 14090 of the Welfare and Institutions Code is repealed.

SEC. 241. Section 14090.1 of the Welfare and Institutions Code is repealed.

SEC. 242. Section 14090.2 of the Welfare and Institutions Code is repealed.

SEC. 243. Section 14090.3 of the Welfare and Institutions Code is repealed.

SEC. 244. Section 14104.6 of the Welfare and Institutions Code is amended to read:

14104.6. No Medi-Cal fiscal intermediary contract shall be approved, renewed or continued if a state employee is employed in a management, consultant or technical position by the contractor or a subcontractor to the contractor within one year after the state employee terminated state employment.

For purposes of this section, "state employee" means any appointive or civil service employee of the Governor's office, the Health and Welfare Agency, the State Department of Health Services, the Controller's office, the Attorney General, or the Legislature who, within two years prior to leaving state employment, had responsibilities related to development, negotiation, contract management, supervision, technical assistance or audit of a Medi-Cal fiscal intermediary.

The requirements of this section shall not apply to any state employee who terminated state employment prior to the operative date of this section.

SEC. 245. Section 14105.15 of the Welfare and Institutions Code is amended to read:

14105.15. (a) (1) In determining rates of reimbursement for inpatient hospital services the department shall use the reimbursement policy existing on June 29, 1982. The director shall have authority to modify this reimbursement policy. The director shall implement a new reimbursement policy of peer grouping of hospitals through the promulgation of emergency regulations after required federal approvals are obtained. The department may adjust interim payment percentages to hospitals in order to approximate final settlement and may control or freeze charges in order to carry out this section.

(2) This section shall cease to apply to a hospital when the department enters into a contract, pursuant to Article 2.6 (commencing with Section 14081), either with that hospital or with other hospitals to the exclusion of that hospital for services covered under the contracts.

(b) Notwithstanding any other provision of law, the department may make interim rate adjustments and also implement collection procedures to recover overpayments to hospitals, at tentative and final settlement. These recoveries shall be based on audits or examinations made by or on behalf of the department pursuant to Sections 10722 and 14170, including the application of Sections 51536, 51537, and 51539 of Title 22 of the California Administrative Code at tentative and final settlement. Recovery may be made whether or not appeals by the hospitals are pending. Collection of overpayments shall be made in accordance with Section 14172.5.

(c) The amendment of this section made at the 1985 portion of the 1985-86 Regular Session of the Legislature does not constitute a change in, but is declaratory of, the existing law. This declaration shall not apply to any lawsuits filed on or before July 9, 1985.

(d) No new payment system may be implemented without specific authorization from the Legislature.

(e) Notwithstanding any other provision of law, reimbursement for out-of-state acute inpatient hospital services provided to Medi-Cal beneficiaries shall not exceed the current statewide average of contract

rates for acute inpatient hospital services negotiated by the California Medical Assistance Commission or the actual billed charges, whichever is less.

SEC. 246. Section 14195.8 of the Welfare and Institutions Code is repealed.

SEC. 247. Section 14492 of the Welfare and Institutions Code is repealed.

SEC. 248. Section 14499.5 of the Welfare and Institutions Code is amended to read:

14499.5. (a) (1) In carrying out the intent of this article, the director shall contract for the operation of one local pilot program. Special consideration shall be given to approving a program contracted through county government in Santa Barbara County.

(2) Notwithstanding the limitations contained in Section 14490, the director may enter into, or extend, contracts with the local pilot program in Santa Barbara County pursuant to paragraph (1) for periods that do not exceed three years.

(b) The establishment of a pilot program pursuant to this section shall be contingent upon the availability of state and federal funding. The program shall include the following components:

(1) Local authority for administration, fiscal management, and delivery of services, but not including eligibility determination.

(2) Physician case management.

(3) Cost containment through provider incentives and other means.

(c) The program for the pilot project shall include a plan and budget for delivery of services, administration, and evaluation. During the first year of the pilot program, the amount of the state contract shall equal 95 percent of total projected Medi-Cal expenditures for delivery of services and for administration based on fee-for-service conditions in the program county. During the remaining years of the pilot project Medi-Cal expenditures in the program county shall be no more than 100 percent of total projected expenditures for delivery of services and for administration based on any combination of the following paragraphs:

(1) Relevant prior fee-for-service Medi-Cal experience in the program county.

(2) The fee-for-service Medi-Cal experience in comparable counties or groups of counties.

(3) Medi-Cal experience of the pilot project in the program county if, as determined by the department, the scope, level, and duration of, and expenditures for, any services used in setting the rates under this paragraph would be comparable to fee-for-service conditions were they to exist in the program county and would be more actuarially reliable for use in ratesetting than data available for use in applying paragraph (1) or (2).

The projected total expenditure shall be determined annually according to an acceptable actuarial process. The data elements used by the department shall be shared with the proposed contractor.

(d) The director shall accept or reject the proposal within 30 days after the date of receipt. If a decision is made to reject the proposal, the director shall set forth the reasons for this decision in writing. Upon approval of the proposal, a contract shall be written within 60 days. After signature by the local contractor, the State Department of Health Services and the Department of General Services shall execute the contract within 60 days.

(e) The director shall seek the necessary state and federal waivers to enable operation of the program. If the federal waivers for delivery of services under this plan are not granted, the department is under no obligation to contract for implementation of the program.

(f) For purposes of Section 1343 of the Health and Safety Code, the Santa Barbara Regional Health Authority shall be considered to be a county-operated pilot program contracting with the State Department of Health Services pursuant to this article, and notwithstanding any other provision of law, during the period that this contract is in effect, the contractor shall be exempt from the provisions of 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, relative to the services provided to Medi-Cal beneficiaries under the terms and provisions of the pilot program.

(g) Dental services may be included within the services provided in this pilot program.

(h) Any federal demonstration funding for this pilot program shall be made available to the county within 60 days upon notification of the award without the state retaining any portion not previously specified in the grant application as submitted.

(i) (1) (A) The California Medical Assistance Commission may negotiate exclusive contracts and rates on behalf of the department with the Santa Barbara Regional Health Authority in the implementation of this section.

(B) Contracts entered into under this article may be on a noncompetitive bid basis and shall be exempt from Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code. These contracts shall have no force or effect unless approved by the Department of Finance.

(C) The department shall enter into contracts pursuant to this article, and shall be bound by the terms and conditions related to the rates negotiated by the negotiator.

(2) The department shall implement this subdivision to the extent that the following apply:

(A) Its implementation does not revise the status of the pilot program as a federal demonstration project.

(B) Existing federal waivers apply to the pilot program as revised by this subdivision, or the federal government extends the applicability of the existing federal waivers or authorizes additional federal waivers for the implementation of the program.

(3) The implementation of this subdivision shall not affect the pilot program's having met any of the requirements of Part 3.5 (commencing with Section 1175) of Division 1 of the Health and Safety Code and this division applicable to the pilot program with respect to the negotiations of contracts and rates by the department.

SEC. 249. Section 16501.6 of the Welfare and Institutions Code is repealed.

SEC. 250. Section 16576 of the Welfare and Institutions Code is amended to read:

16576. (a) The department shall develop an implementation plan for the Statewide Child Support Registry. The Statewide Child Support Registry shall be operated by the agency responsible for operation of the Statewide Automated Child Support System (SACSS) or its replacement. The Statewide Child Support Registry shall include storage and data retrieval of the data elements specified in Section 16577 for all California child support orders. The plan shall be developed in consultation with clerks of the court, district attorneys, and child support advocates. The plan shall be submitted to the Legislature by January 31, 1998. The implementation plan shall explain in general terms, among other things, how the Statewide Child Support Registry will operate to ensure that all data in the Statewide Child Support Registry can be accessed and how data shall be integrated for statistical analysis and reporting purposes with all child support order data contained in the Statewide Automated Child Support System or its replacement and the Los Angeles Automated Child Support Enforcement System (ACSES) Replacement System.

(b) Each clerk of the court shall provide the information specified in Section 16577 within 20 days to the department or the Statewide Child Support Registry from each new or modified child support order, including child support arrearage orders.

(c) The department shall maintain a system for compiling the child support data received from the clerks of the court, ensure that all child support data received from the clerks of the court are entered into the Statewide Child Support Registry within 10 days of receipt in the Statewide Child Support Registry, and ensure that the Statewide Child Support Registry is fully implemented statewide.

(d) The department shall provide aggregate data on a periodic basis on the data maintained by the Statewide Child Support Registry to the

Judicial Council, the appropriate agencies of the executive branch, and the Legislature for statistical analysis and review. The data shall not include individual identifying information for specific cases.

(e) Any information maintained by the Statewide Child Support Registry received from clerks of the court shall be provided to county district attorneys, the Franchise Tax Board, the courts, and others as provided by law.

SEC. 251. Section 18379 of the Welfare and Institutions Code is repealed.

SEC. 252. Section 18989.3 of the Welfare and Institutions Code is repealed.

SEC. 253. Section 19856 of the Welfare and Institutions Code is repealed.

SEC. 254. Any section of any act enacted by the Legislature during the 2004 calendar year that takes effect on or before January 1, 2005, and that amends, amends and renumbers, adds, repeals and adds, or repeals a section that is amended, amended and renumbered, added, repealed and added, or repealed by this act, shall prevail over this act, whether that act is enacted prior to, or subsequent to, the enactment of this act. The repeal, or repeal and addition, of any article, chapter, part, title, or division of any code by this act shall not become operative if any section of any other act that is enacted by the Legislature during the 2004 calendar year and takes effect on or before January 1, 2005, amends, amends and renumbers, adds, repeals and adds, or repeals any section contained in that article, chapter, part, title, or division.

CHAPTER 194

An act to amend Section 1812.601 of the Civil Code, and to amend Sections 72, 327.1, 2503.1, 2503.2, 2504, 2508, 3451, 3456, 3693, 3693.1, 3695, 3701, 3702, 3704, 3704.7, 3707, 3710, and 3716 of, to add Sections 3692.1, 3692.2, and 3692.3 to, and to repeal Sections 3450, 3453, 3454, 3457, and 3717.5 of, the Revenue and Taxation Code, relating to taxation.

[Approved by Governor July 23, 2004. Filed with
Secretary of State July 23, 2004.]

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

SECTION 1. Section 1812.601 of the Civil Code is amended to read:

1812.601. (a) "Advertisement" means any of the following:

(1) Any written or printed communication for the purpose of soliciting, describing, or offering to act as an auctioneer or provide auction company services, including any brochure, pamphlet, newspaper, periodical, or publication.

(2) A telephone or other directory listing caused or permitted by an auctioneer or auction company to be published that indicates the offer to practice auctioneering or auction company services.

(3) A radio, television, or similar airwave transmission that solicits or offers the practice of auctioneering or auction company services.

(b) "Auction" means a sale transaction conducted by means of oral or written exchanges, which include exchanges made in person or through electronic media, between an auctioneer and the members of his or her audience, which exchanges consist of a series of invitations for offers for the purchase of goods made by the auctioneer and offers to purchase made by members of the audience and culminate in the acceptance by the auctioneer of the highest or most favorable offer made by a member of the participating audience. However, auction does not include either of the following:

(1) A wholesale motor vehicle auction subject to regulation by the Department of Motor Vehicles.

(2) A sale of real estate or a sale in any sequence of real estate with personal property or fixtures or both in a unified sale pursuant to subparagraph (B) of paragraph (1) of subdivision (a) of Section 9604 of the Commercial Code.

(c) "Auction company" means any person who arranges, manages, sponsors, advertises, accounts for the proceeds of, or carries out auction sales at locations, including, but not limited to, any fixed location, including an auction barn, gallery place of business, sale barn, sale yard, sale pavilion, and the contiguous surroundings of each.

(d) "Auctioneer" means any individual who is engaged in, or who by advertising or otherwise holds himself or herself out as being available to engage in, the calling for, the recognition of, and the acceptance of, offers for the purchase of goods at an auction.

(e) "Employee" means an individual who works for an employer, is listed on the employer's payroll records, and is under the employer's control.

(f) "Employer" means a person who employs an individual for wages or salary, lists the individual on the person's payroll records, and withholds legally required deductions and contributions.

(g) "Goods" means any goods, wares, chattels, merchandise, or other personal property, including domestic animals and farm products.

(h) "Person" means an individual, corporation, partnership, trust, including a business trust, firm, association, organization, or any other form of business enterprise.

SEC. 2. Section 72 of the Revenue and Taxation Code is amended to read:

72. (a) A copy of any building permit issued by any city, county, or city and county shall be transmitted by each issuing entity to the county assessor as soon as possible after the date of issuance.

(b) A copy of any certificate of occupancy or other document that shows the date of completion of new construction issued or finalized by any city, county, or city and county, shall be transmitted by each entity to the county assessor within 30 days after the date of issuance or finalization.

(c) At the time an assessee files, or causes to be filed, an approved set of building plans with the city, county, or city and county, a scale copy of the floor plans and exterior dimensions of the building designated for the county assessor shall be filed by the assessee or his or her designee. The scale copy shall be in sufficient detail to allow the assessor to determine the square footage of the building and, in the case of a residential building, the intended use of each room. An assessee, or his or her designee, where multiple units are to be constructed from the same set of building plans, may file only one scale copy of floor plans and exterior dimensions, so long as each application for a building permit with respect to those building plans specifically identifies the scale copy filed pursuant to this section. However, where the square footage of any one of the multiple units is altered, an assessee, or his or her designee, shall file a scale copy of the floor plan and exterior dimensions that specifically identifies the alteration from the previously filed scale copy. The receiving authority shall transmit that copy to the county assessor as soon as possible after the final plans are approved.

(d) The board of supervisors of a county may enact, by a majority vote of its entire membership, an ordinance, resolution, or board order that requires the local agency that approves the tentative map or maps, and any conditions of approval for the tentative map or maps that are filed with a county or a city in that county, to submit a copy of the map or maps, and any conditions of approval for the tentative map or maps, to the county assessor as soon as possible after the map or maps are filed. The ordinance, resolution, or board order may require that the map or maps be provided to the county assessor in an electronic format, if available in that form.

SEC. 3. Section 327.1 of the Revenue and Taxation Code is amended to read:

327.1. The board of supervisors of any county may enact, by a majority vote of its membership, an ordinance, resolution, or board order 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. 4. Section 2503.1 of the Revenue and Taxation Code is amended to read:

2503.1. As used in this division, “electronic funds transfer” means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape so as to order, instruct, or authorize a financial institution to credit or debit an account.

SEC. 5. Section 2503.2 of the Revenue and Taxation Code is amended to read:

2503.2. (a) The tax collector for any city, county, or city and county may, in his or her discretion, accept electronic funds transfers in payment for a purchase at a tax sale, of any tax, assessment, or on a redemption.

(b) The tax collector for any city, county, or city and county may, in his or her discretion, require any taxpayer, or any paying agent of a taxpayer or taxpayers, who makes an aggregate payment of fifty thousand dollars (\$50,000) or more on the two most recent regular installments on the secured roll or on the one installment of the most recent unsecured tax roll, to make subsequent payments by electronic funds transfer.

(c) Any taxpayer or paying agent making payment by electronic funds transfer shall provide any supporting documentation and electronic information as requested by the tax collector. An electronic funds transfer made pursuant to this section shall be made to the bank account designated by the tax collector.

(d) Any costs incurred by the tax collector as a result of the acceptance of electronic funds transfers pursuant to this section shall be considered administrative costs of tax collection, except that if for any reason the electronic funds transfer is not completed, those costs shall be recovered as provided in subdivision (g).

(e) The acceptance of an electronic funds transfer shall constitute payment of a tax, assessment, or redemption as of the date of acceptance when, but not before, the transfer has been completed. An electronic funds transfer is completed by acceptance by the bank designated by the tax collector of the payment specified by the originator’s payment order.

(f) If an electronic funds transfer is not accepted for any reason, any record of payment entered on any official record indicating the acceptance of that transfer shall be canceled, and the tax or assessment shall be a lien as if no payment has been attempted. When a cancellation of a record of payment is made, the canceling officer shall record the cancellation on the record that contained the notation of payment, and immediately shall cause a written notice of cancellation to be sent to the person attempting the electronic funds transfer.

(g) Upon notice of nonacceptance of an electronic funds transfer, the tax collector may charge the person who attempted the electronic funds transfer a fee not to exceed the costs of processing the transfer, providing notice of nonacceptance to that person, and making required cancellations on the tax roll. The amount of any fee charged pursuant to this subdivision shall be set by the governing body of the relevant city, county, or city and county, and may be added to the tax bill and collected in the same manner as costs recovered pursuant to Section 2621.

SEC. 6. Section 2504 of the Revenue and Taxation Code is amended to read:

2504. As used in this division, “negotiable paper” means bank checks and drafts and express and post office money orders.

SEC. 6.5. Section 2508 of the Revenue and Taxation Code is amended to read:

2508. If any negotiable paper is returned unpaid to the bank with which it was deposited pursuant to any requirement of this division, the bank shall return it to the officer who deposited it and, if its amount has been included in any cashier’s check given by the bank, the bank is entitled to a refund in the amount of the unpaid negotiable paper. Any negotiable paper redeemed by or charged back to the county treasurer by reason of nonpayment shall be returned to the officer who deposited it with him in exchange for currency, other negotiable paper or for the warrant of the county auditor drawn on the fund into which the original deposit was made.

SEC. 7. Section 3450 of the Revenue and Taxation Code is repealed.

SEC. 8. Section 3451 of the Revenue and Taxation Code is amended to read:

3451. The tax collector may, in his or her discretion, accept any method of payment authorized by Section 2502, 2503.2, or 2504 in payment for tax-defaulted property and tax-defaulted property sold at public auction.

SEC. 9. Section 3453 of the Revenue and Taxation Code is repealed.

SEC. 10. Section 3454 of the Revenue and Taxation Code is repealed.

SEC. 11. Section 3456 of the Revenue and Taxation Code is amended to read:

3456. (a) If any part of a bid that was accepted by the tax collector is not paid when due, the county shall have a claim against the bidder for the actual cost of the sale. Immediately upon becoming past due, the tax collector shall notify the bidder by certified mail, which notice shall include all of the following:

(1) That his or her bid has been voided because of the delinquent payment.

(2) The amount of the county’s claim against the bidder.

(3) That the amount of the claim will be deducted from any deposit submitted by the bidder and that any remaining amount of the deposit is forfeited.

(b) If a bidder does not pay the claim arising under subdivision (a) within 30 days after the notice is sent, both of the following apply:

(1) The county may utilize any means authorized by law to collect the claim, including, but not limited to, transferring the amount of the claim to the unsecured roll.

(2) The tax collector may prohibit the bidder from bidding on sales made pursuant to this chapter for up to five years.

SEC. 12. Section 3457 of the Revenue and Taxation Code is repealed.

SEC. 13. Section 3692.1 is added to the Revenue and Taxation Code, to read:

3692.1. Notwithstanding any other provision of law, for purposes of this chapter, all of the following apply:

(a) "Close of auction" means the date and time for which the tax collector, or his or her designee, provides public notice of both of the following:

(1) That no additional property will be offered for sale for that public auction.

(2) That bidding for that public auction will end.

(b) "Date of the sale" means the date upon which a public auction begins.

(c) "Public auction" means any venue or medium to sell property under this chapter that provides reasonable access to the public to bid on and purchase this property.

SEC. 14. Section 3692.2 is added to the Revenue and Taxation Code, to read:

3692.2. A public auction conducted by electronic media, including the Internet, to sell property under this chapter shall have at least the following operational components:

(a) A component that allows bids to be submitted by computer.

(b) A component that authorizes the tax collector to accept bids for as long as he or she deems necessary.

SEC. 15. Section 3692.3 is added to the Revenue and Taxation Code, to read:

3692.3. (a) All property sold under this chapter is offered and sold as is.

(b) The state, the county, and an employee of these entities acting in the employee's official capacity in preparing, conducting, and executing a sale of property under this chapter, are not liable for any of the following:

(1) Known or unknown conditions of this property, including, but not limited to, errors in the assessor's records pertaining to improvement of the property.

(2) The failure of a device that is not owned, operated, and managed by the state or county, that prevents a person from participating in any sale under this chapter. For purposes of this paragraph, "device" includes, but is not limited to, computer hardware, a computer network, a computer software application, and a computer Web site.

SEC. 16. Section 3693 of the Revenue and Taxation Code is amended to read:

3693. (a) With the exception of the sealed bid sale procedures authorized under Section 3692, all sales pursuant to this chapter shall be at public auction to the highest bidder. The amount of the high bid shall be paid by any method of payment authorized by Section 2502, 2503.2, or 2504, which method is at the discretion of the tax collector. Unless otherwise specified by the tax collector, payment is due on or before the close of auction.

(b) The tax collector may require a person to submit a deposit, by any method of payment authorized by Section 2502, 2503.2, or 2504, for the purposes specified in this subdivision. A tax collector requiring a deposit pursuant to Section 3693.1 may determine, and shall provide public notice before the date of the sale upon determining, all of the following:

- (1) The method of payment of this deposit.
- (2) The amount of this deposit.
- (3) The due date of this deposit.

(4) Whether the deposit will be applied for one or more of the following purposes:

(A) As a condition to submitting a bid on property that is being sold under this chapter.

(B) As a payment toward specified property that is being sold under this chapter. If a deposit is applied for this purpose, the deposit may be applied as payment toward more than one specified property based upon the amount of the minimum bid for each property.

SEC. 17. Section 3693.1 of the Revenue and Taxation Code is amended to read:

3693.1. Notwithstanding Section 3693, the tax collector may make the sale of any property sold under this chapter a cash or credit transaction. If the tax collector approves the sale as a credit transaction, the tax collector may require a deposit in the amount of five thousand dollars (\$5,000) or 10 percent of the minimum bid price, whichever is greater. The balance of the purchase price shall be paid by any method of payment authorized by Section 2502, 2503.2, or 2504, as specified by the tax collector and within a period specified by the tax collector not to exceed 90 days from the date of the close of auction as a condition

precedent to the transfer of title to the purchaser. If the purchaser was required to pay a deposit prior to the date of the sale, the deposit shall be applied toward the purchase price of the property. Failure on the part of the successful bidder to consummate the sale within the period specified by the tax collector shall result in the forfeiture of the deposit and all rights he or she may have with respect to that property. Any forfeiture of deposit shall be distributed to the county general fund and shall not apply to outstanding delinquent taxes. Upon forfeiture the right of redemption shall revive.

SEC. 18. Section 3695 of the Revenue and Taxation Code is amended to read:

3695. If the governing body of any taxing agency does not, before the date of the sale, file with the tax collector and the board of supervisors certified copies of a resolution adopted by the governing body objecting to the sale, the taxing agency has consented to the sale. If the taxing agency consents to the sale the lien of its taxes or assessments and any rights which it may have to the property as a result of these taxes or assessments are canceled by a sale under this chapter and it is entitled to its proper share of the proceeds deposited in the delinquent tax sale trust fund. If the taxing agency does object to the sale, the lien of its taxes or assessments or any rights which the taxing agency may have to the property are not affected by a sale under this chapter. Provided, however, that any taxing agency that is also a revenue district may not object to a sale unless it files with this objection an executed proposed agreement under Chapter 8 of this part to purchase the property, but not including an option to purchase, at a price not less than the minimum bid.

If a taxing agency that is not also a revenue district objects to the sale and before the date of the sale applies in writing to the board of supervisors to purchase the property under Chapter 8 of this part at a price equal to that approved by the board of supervisors, or upon a pro rata division of the proceeds of a sale as may be provided under Chapter 8, the tax collector shall not proceed with the sale.

SEC. 19. Section 3701 of the Revenue and Taxation Code is amended to read:

3701. Not less than 45 days nor more than 120 days before the proposed sale, the tax collector shall send notice of the proposed sale by certified mail with return receipt requested to the last known mailing address, if available, of parties of interest, as defined in Section 4675. The notice shall state the date, time, and place of the proposed sale, the amount required to redeem the property, and the fact that the property may be redeemed up to the close of business on the last business day prior to the date of the sale, and information regarding the rights of parties of interest to claim excess proceeds, as defined in Section 4674, if the property is sold and excess proceeds result from that sale.

The tax collector shall make a reasonable effort to obtain the name and last known mailing address of parties of interest.

The validity of any sale under this chapter shall not be affected if the tax collector's reasonable effort fails to disclose the name and last known mailing address of parties of interest or if a party of interest does not receive the mailed notice.

SEC. 20. Section 3702 of the Revenue and Taxation Code is amended to read:

3702. The tax collector shall publish the notice of intended sale once a week for three successive weeks in a newspaper of general circulation published in the county seat and in a newspaper of general circulation published in the judicial district in which the property is situated. If the same newspaper of general circulation is published in both the county seat and in such district, or if the publication of the notice of sale is made in a newspaper which is determined pursuant to Section 3381 as most likely to afford adequate notice of the sale, a publication in such paper shall satisfy the requirements for publication set forth in this section. If there is no newspaper published in the county seat or in the judicial district, then publication may be made by posting notice in three public places in the county seat or in the judicial district, as the case may be, where no such newspaper is published. The publication shall be started not less than 21 days prior to the date of the sale.

SEC. 21. Section 3704 of the Revenue and Taxation Code is amended to read:

3704. The notice of intended sale shall include all of the following:

(a) The date, time, and place of the intended sale, including the electronic address if the intended sale is by public auction via the Internet or other electronic media.

(b) The locations of computer workstations that are available to the public and instructions on accessing the public auction and submitting bids if the intended sale is conducted via the Internet or other electronic media.

(c) A description of the property to be sold.

(d) The name of the last assessee of the property.

(e) The minimum acceptable bid of the property to be sold.

(f) A statement that if the property is not redeemed before the close of business on the last business day prior to the date of the sale, the right of redemption will cease.

(g) A statement that if the property is sold, parties of interest, as defined in Section 4675, have the right to file a claim with the county for any proceeds from the sale which are in excess of the liens and costs required to be paid from the proceeds.

(h) A statement that if excess proceeds result from the sale, notice will be given to parties of interest, pursuant to law.

(i) A statement that if the parcel remains unsold after the tax sale, the date, time, and location of any subsequent sale.

(j) If applicable, that a deposit is required as a condition to submit bids on the property.

(k) If applicable, a statement that, for any property purchased by a credit transaction, the right of redemption will revive if full payment is not received by the tax collector prior to the close of business on the date, as specified by the tax collector under Section 3693.1, that full payment is due.

SEC. 22. Section 3704.7 of the Revenue and Taxation Code is amended to read:

3704.7. (a) In the case of a property that is the primary residence of the last known assessee, as indicated by either a valid homeowner's exemption on file with the county assessor in the name of the last known assessee, or the fact that the mailing address for the last tax bill is the same address as the property, the tax collector or his or her agent shall, in addition to any other notice required by this chapter, make a reasonable effort to contact in person, not more than 120 days or less than 10 days prior to the date of the sale, the owner-occupant of that property. In the course of the personal contact, the tax collector, or his or her agent, shall inform the owner-occupant of the following:

(1) That the property, if not redeemed, shall be offered for sale at a public auction.

(2) His or her redemption rights pursuant to Part 7 (commencing with Section 4101).

(b) If the personal contact described in subdivision (a) is not made after reasonable efforts, the tax collector or his or her agent shall attempt to serve written notice, no less than five days prior to the date of the sale, with respect to the fact of the sale and the requirement that the tax collector be contacted immediately with respect to redemption of the property.

(c) The amount of the actual and reasonable costs incurred by the tax collector, or his or her agent, or both, in complying with the requirements of subdivisions (a) and (b), not to exceed one hundred dollars (\$100), shall be added to the required amount for redemption of the property.

(d) No transfer of title shall be invalidated by reason of failure to comply with the requirements of this section.

SEC. 23. Section 3707 of the Revenue and Taxation Code is amended to read:

3707. (a) (1) The right of redemption terminates at the close of business on the last business day prior to the date of the sale.

(2) If the tax collector approves a sale as a credit transaction and does not receive full payment on or before the date upon which the tax

collector requires pursuant to Section 3693.1, the right of redemption is revived on the next business day following that date.

(b) Notwithstanding any other provision of law, any remittance sent by mail for redemption of tax-defaulted property must be received in the tax collector's office prior to the time established in paragraph (1) of subdivision (a).

(c) The sale shall be deemed complete when full payment has been received by the tax collector.

(d) The right of redemption revives if the property is not sold.

SEC. 24. Section 3710 of the Revenue and Taxation Code is amended to read:

3710. In addition to the usual provisions of a deed conveying real property, the deed shall specify all of the following:

(a) That the legally levied taxes on the subject property were duly declared to be in default and were a lien on the property.

(b) That the tax collector, pursuant to a statutory power of sale, has sold the property.

(c) If a taxing agency objected to the sale, the fact of the objection and the name of the objecting taxing agency.

(d) The name of the purchaser, the date the property was sold, and the amount for which the property was sold.

(e) That the property is therefore conveyed to the purchaser according to law.

SEC. 25. Section 3716 of the Revenue and Taxation Code is amended to read:

3716. Within 10 days after the sale, the tax collector shall report to the assessor the following:

(a) The name of the purchaser.

(b) The date the property was sold.

(c) The amount for which the property was sold.

(d) The description of the property conveyed.

SEC. 26. Section 3717.5 of the Revenue and Taxation Code is repealed.

CHAPTER 195

An act to amend Section 17070.75 of the Education Code, relating to school finance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 27, 2004. Filed with
Secretary of State July 27, 2004.]

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

SECTION 1. Section 17070.75 of the Education Code is amended to read:

17070.75. (a) The board shall require the school district to make all necessary repairs, renewals, and replacements to ensure that a project is at all times maintained in good repair, working order, and condition. All costs incurred for this purpose shall be borne by the school district.

(b) In order to ensure compliance with subdivision (a) and to encourage school districts to maintain all buildings under their control, the board shall require an applicant school district to do all of the following prior to the approval of a project:

(1) Establish a restricted account within the school district's general fund for the exclusive purpose of providing moneys for ongoing and major maintenance of school buildings, according to the highest priority to funding for the purposes set forth in subdivision (a).

(2) (A) Agree to deposit into the account established pursuant to paragraph (1), in each fiscal year for 20 years after receipt of funds under this chapter, a minimum amount equal to or greater than 3 percent of the applicant school district's total general fund expenditures, including other financing uses, for that fiscal year. Annual deposits to the account established pursuant to paragraph (1) in excess of 2¹/₂ percent of the school district general fund budget may count towards the school district's matching funds requirement necessary to receive apportionments from the State School Deferred Maintenance Fund pursuant to Section 17584 to the extent that funds are used for purposes that qualify for funding under that section.

(B) Notwithstanding subparagraph (A), for the 2004–05 fiscal year only, an applicant school district shall deposit into the account established pursuant to paragraph (1), no less than 2 percent of the school district's total general fund expenditures, including other financing uses, for the fiscal year. The annual deposit to the account in excess of 1¹/₂ percent of the school district general fund budget for the 2004–05 fiscal year may count towards the amount that a school district is required to contribute in order to receive apportionments from the State School Deferred Maintenance Fund pursuant to Section 17584 to the extent that funds are used for purposes that qualify for funding under that section.

(C) A school district contribution to the account may be provided in lieu of meeting the ongoing maintenance requirements pursuant to Section 17014 to the extent the funds are used for purposes established in that section. A school district that serves as the administrative unit for a special education local plan area may elect to exclude from its total general fund expenditures, for purposes of this paragraph, the

distribution of revenues that are passed through to participating members of the special education local plan area.

(D) This paragraph applies only to the following school districts:

(i) High school districts with an average daily attendance greater than 300 pupils.

(ii) Elementary school districts with an average daily attendance greater than 900 pupils.

(iii) Unified school districts with an average daily attendance greater than 1,200 pupils.

(3) Certify that it has publicly approved an ongoing and major maintenance plan that outlines the use of the funds deposited, or to be deposited, pursuant to paragraph (2). The plan may provide that the school district need not expend all of its annual allocation for ongoing and major maintenance in the year in which it is deposited if the cost of major maintenance requires that the allocation be carried over into another fiscal year. However, any state funds carried over into a subsequent year may not be counted toward the annual minimum contribution by the school district. A plan developed in compliance with this section shall be deemed to meet the requirements of Section 17585.

(c) A school district to which paragraph (2) of subdivision (b) does not apply shall certify to the board that it can reasonably maintain its facilities with a lesser level of maintenance.

(d) For purposes of calculating a county office of education requirement pursuant to this section, the 3 percent maintenance requirement shall be based upon the county office of education general fund less any restricted accounts.

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 avoid imposing significant unexpected budget obligations upon school districts, it is necessary for this act to take effect immediately.

CHAPTER 196

An act to amend Sections 20209.12, 20209.13, and 20209.14 of the Public Contract Code, relating to public contracts.

[Approved by Governor July 27, 2004. Filed with
Secretary of State July 27, 2004.]

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

SECTION 1. It is the intent of the Legislature that nothing in this act shall be construed to limit transit operators from engaging in qualified transit projects that would require minor modifications to local roads that are incidental to light rail or bus transit improvements.

SEC. 2. Section 20209.12 of the Public Contract Code is amended to read:

20209.12. Each transit operator that elects to proceed under this article and use the design-build method on a public works project shall prepare and deliver to the Legislative Analyst's office within 120 days of the design-build project being put into operation or by December 1, 2005, whichever occurs first, a report containing a description of each public works project financed with public funds, procured through the design-build process, and completed on or before November 1, 2005. However, if a project has been commenced, but not completed on or before November 1, 2005, the transit operator shall complete a report no later than 120 days after completion of the project. The report shall include, but not be limited to, all of the following information:

- (a) The type of facility.
- (b) The gross square footage of the facility.
- (c) The company or contractor who was awarded the project.
- (d) The estimated and actual length of time to complete the project.
- (e) The findings established pursuant to Section 20133.
- (f) Any Labor Code violations discovered during the course of construction or following completion of the project, as well as any fines or penalties assessed.
- (g) The estimated and actual project cost.
- (h) A description of any written protests concerning any aspect of the solicitation, bid, proposal, or award of the design-build project, including the resolution of the protest.
 - (i) An assessment of the prequalification process and criteria.
 - (j) An assessment of the impact of retaining 5 percent retention on the project.
 - (k) A description of the labor force compliance program and an assessment of the project impact, where required.
 - (l) A description of the method used to award the contract. If best value was the method, the factors used to evaluate the bid shall be described, including the weighting of each factor and an assessment of the effectiveness of the methodology.
 - (m) An assessment of the project impact of "skilled labor force availability."
 - (n) An assessment of the design-build dollar limits on transit projects. This shall include projects where the transit operator wanted to use

design-build and was precluded by the dollar limitation. It shall also include projects where the best value method of awarding contracts was not used, due to dollar limitations.

(o) An assessment of the most appropriate uses for the design-build approach.

(p) Any transit operator that elects not to use the authority granted may also submit a report to the entities named in accordance with the schedule in this section. This report may include an analysis of why the authority granted was not used by the operator.

SEC. 3. Section 20209.13 of the Public Contract Code is amended to read:

20209.13. (a) Unless expressly set forth in this article, nothing in this article is intended to affect, expand, alter, or limit any rights or remedies otherwise available at law.

(b) This article applies only to transit projects. "Transit projects" for the purposes of this article does not include state highway construction or local street and road projects.

SEC. 4. Section 20209.14 of the Public Contract Code is amended to read:

20209.14. This article shall remain in effect only until January 1, 2007, and as of that date is repealed.

CHAPTER 197

An act to add Chapter 4 (commencing with Section 14700) to Division 6 of the Business and Professions Code, relating to lenders.

[Approved by Governor July 27, 2004. Filed with
Secretary of State July 27, 2004.]

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

SECTION 1. Chapter 4 (commencing with Section 14700) is added to Division 6 of the Business and Professions Code, to read:

CHAPTER 4. SOLICITATIONS FOR FINANCIAL SERVICES

14700. (a) "Lender" as used in this chapter means a bank, savings and loan association, savings bank, credit union, industrial bank, or other lender licensed to make loans in California or a subsidiary or an affiliate of one of those entities.

(b) "Financial services" as used in this chapter means financial services or products that are considered to be financial in nature as described in Section 1843(k) of Title 12 of the United States Code.

14701. (a) No person shall include the name, trade name, logo, or tagline of a lender in a written solicitation for financial services directed to a consumer who has obtained a loan from the lender without the consent of the lender, unless the solicitation clearly and conspicuously states that the person is not sponsored by or affiliated with the lender and that the solicitation is not authorized by the lender, which shall be identified by name. This statement shall be made in close proximity to, and in the same or larger font size as, the first and the most prominent use or uses of the name, trade name, logo, or tagline in the solicitation, including on an envelope or through an envelope window containing the solicitation.

(b) No person shall use the name of a lender or a name similar to that of a lender in a solicitation for financial services directed to consumers if that use could cause a reasonable person to be confused, mistaken, or deceived initially or otherwise as to either of the following:

(1) The lender's sponsorship, affiliation, connection, or association with the person using the name.

(2) The lender's approval or endorsement of the person using the name or the person's services or products.

14702. No person shall include a consumer's loan number or loan amount, whether or not publicly available, in a solicitation for services or products without the consent of the consumer, unless the solicitation clearly and conspicuously states, when applicable, that the person is not sponsored by or affiliated with the lender and that the solicitation is not authorized by the lender, and states that the consumer's loan information was not provided to that person by that lender. This statement shall be made in close proximity to, and in the same or larger font as, the first and the most prominent use or uses of the consumer's loan information in the solicitation, including on an envelope or through an envelope window containing the solicitation.

14703. It is not a violation of this chapter for a person in an advertisement or solicitation for services or products to use the name, trade name, logo, or tagline of a lender without the statement described in subdivision (a) of Section 14701 if that use is exclusively part of a comparison of like services or products in which the person clearly and conspicuously identifies itself or that otherwise constitutes nominative fair use. Nothing in this chapter shall be deemed or interpreted to alter or modify the trade name and trademark laws of this state, including Chapter 2 (commencing with Section 14200) and Chapter 3 (commencing with Section 14400).

14704. (a) A person who violates Section 14701 or 14702 shall be subject to an injunction against that use. In an action to enjoin a violation of subdivision (a) of Section 14701 or Section 14702, it is not necessary to allege or to prove actual damage to the plaintiff, and irreparable harm and interim harm to the plaintiff shall be presumed. In the action to enjoin a violation of subdivision (b) of Section 14701, affidavits that show consumers were confused, mistaken, or deceived as to a matter described in subdivision (b) of Section 14701 is prima facie evidence of damage and injury to the plaintiff. In addition to injunctive relief, the plaintiff is entitled to recover in the action the amount of the actual damages, if any, it sustained.

(b) The prevailing party in an action brought under this chapter is entitled to recover its costs and reasonable attorney's fees as the court may determine.

CHAPTER 198

An act to amend Sections 375, 25258, and 25950 of, and to add Section 24255 to, the Vehicle Code, relating to vehicles.

[Approved by Governor July 27, 2004. Filed with
Secretary of State July 27, 2004.]

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

SECTION 1. Section 375 of the Vehicle Code is amended to read:
375. "Lighting equipment" is any of the following lamps or devices:

(a) A headlamp, auxiliary driving, passing, or fog lamp, fog taillamp, taillamp, stoplamp, supplemental stoplamp, license plate lamp, clearance lamp, side marker lamp, signal lamp or device, supplemental signal lamp, deceleration signal device, cornering lamp, running lamp, red, blue, amber, or white warning lamp, flashing red schoolbus lamp, side-mounted turn signal lamp, and schoolbus side lamp.

(b) An operating unit or canceling mechanism for turn signal lamps or for the simultaneous flashing of turn signal lamps as vehicular hazard signals, and an advance stoplamp switch.

(c) A flasher mechanism for turn signals, red schoolbus lamps, warning lamps, the simultaneous flashing of turn signal lamps as vehicular hazard signals, and the headlamp flashing systems for emergency vehicles.

(d) Any equipment regulating the light emitted from a lamp or device or the light sources therein.

(e) A reflector, including reflectors for use on bicycles, and reflectors used for required warning devices.

(f) An illuminating device that emits radiation predominantly in the infrared or ultraviolet regions of the spectrum, whether or not these emissions are visible to the unaided eye.

SEC. 2. Section 24255 is added to the Vehicle Code, to read:

24255. (a) A vehicle may be equipped with a system to supplement the driver's visibility of the roadway to the front or rear of the vehicle during darkness. This system may incorporate an illuminating device that emits radiation predominantly in the infrared region of the electromagnetic spectrum and a display monitor to provide an image visible to the driver of the vehicle. The system, or any portion of it, shall not obstruct the vision of the driver, and shall not emit any glaring light visible in any direction or to any person. The illuminating device may be mounted inside the vehicle, if it is constructed and mounted so as to prevent any direct or reflected light, other than a monitorial indicator emitted from the device, from being visible to the driver.

(b) The system shall be operated only with the headlamps lighted. An illuminating device for the system shall be interlocked with the headlamp switch so that it is operable only when the headlamps are lighted.

(c) (1) No part of the illuminating device may be physically or optically combined with any other required or permitted lighting device.

(2) The illuminating device may be installed within a housing containing other required or permitted lighting devices, if the function of the other devices is not impaired thereby.

SEC. 3. Section 25258 of the Vehicle Code is amended to read:

25258. (a) An authorized emergency vehicle operating under the conditions specified in Section 21055 may display a flashing white light from a gaseous discharge lamp designed and used for the purpose of controlling official traffic control signals.

(b) An authorized emergency vehicle used by a peace officer, as defined in Section 830.1 of, subdivision (a), (b), (c), (d), (e), (f), (g), or (i) of Section 830.2 of, subdivision (b) of Section 830.31 of, subdivision (a) or (b) of Section 830.32 of, Section 830.33 of, subdivision (a) of Section 830.36 of, subdivision (a) of Section 830.4 of, or Section 830.6 of, the Penal Code, in the performance of the peace officer's duties, may, in addition, display a steady or flashing blue warning light visible from the front, sides, or rear of the vehicle.

(c) Except as provided in subdivision (a), a vehicle shall not be equipped with a device that emits any illumination or radiation that is designed or used for the purpose of controlling official traffic control signals.

SEC. 4. Section 25950 of the Vehicle Code is amended to read:

25950. This section applies to the color of lamps and to any reflector exhibiting or reflecting perceptible light of 0.05 candela or more per foot-candle of incident illumination. Unless provided otherwise, the color of lamps and reflectors upon a vehicle shall be as follows:

(a) The emitted light from all lamps and the reflected light from all reflectors, visible from in front of a vehicle, shall be white or yellow, except as follows:

(1) Rear side marker lamps required by Section 25100 may show red to the front.

(2) The color of foglamps described in Section 24403 may be in the color spectrum from white to yellow.

(3) An illuminating device, as permitted under Section 24255, shall emit radiation predominantly in the infrared region of the electromagnetic spectrum. Any incidental visible light projecting to the front of the vehicle shall be predominantly yellow to white. Any incidental visible light projecting to the rear of the vehicle shall be predominantly red. Any incidental visible light from an illuminating device, as permitted under Section 24255, shall not resemble any other required or permitted lighting device or official traffic control device.

(b) The emitted light from all lamps and the reflected light from all reflectors, visible from the rear of a vehicle, shall be red except as follows:

(1) Stoplamps on vehicles manufactured before January 1, 1979, may show yellow to the rear.

(2) Turn signal lamps may show yellow to the rear.

(3) Front side marker lamps required by Section 25100 may show yellow to the rear.

(4) Backup lamps shall show white to the rear.

(5) The rearward facing portion of a front-mounted double-faced turn signal lamp may show amber to the rear while the headlamps or parking lamps are lighted, if the intensity of the light emitted is not greater than the parking lamps and the turn signal function is not impaired.

(6) A reflector meeting the requirements of, and installed in accordance with, Section 24611 shall be red or white, or both.

(c) All lamps and reflectors visible from the front, sides, or rear of a vehicle, except headlamps, may have any unlighted color, provided the emitted light from all lamps or reflected light from all reflectors complies with the required color. Except for backup lamps, the entire effective projected luminous area of lamps visible from the rear or mounted on the sides near the rear of a vehicle shall be covered by an inner lens of the required color when the unlighted color differs from the required emitted light color. Taillamps, stoplamps, and turn signal lamps that are visible to the rear may be white when unlighted on vehicles manufactured before January 1, 1974.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 199

An act to add Sections 4730.11 and 4730.12 to, to repeal Section 4730.3 of, the Health and Safety Code, relating to sanitation districts.

[Approved by Governor July 27, 2004. Filed with
Secretary of State July 27, 2004.]

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

SECTION 1. Section 4730.11 is added to the Health and Safety Code, immediately following Section 4730.1, to read:

4730.11. (a) Notwithstanding any other provision of this article, the governing body of the Sacramento County Sanitation District No. 1 shall be a board of directors composed of not less than five members.

(b) If the district includes no territory that is within a city, the Sacramento County Board of Supervisors shall be the board of directors of the district. If the district includes territory that is within a city, the board of directors shall be composed of the Sacramento County Board of Supervisors and a member of the governing body of each included city, appointed by that city's governing body.

(c) The governing body of each city located within the district may appoint one of its members to serve as an alternate to act in the absence, inability, or refusal to act, of its appointed member.

(d) (1) Each member or alternate member of the board of directors shall have one vote.

(2) Notwithstanding paragraph (1), if the members of the board of directors constitute an even number and if the vote is tied, the chairperson of the board of directors shall have an additional vote.

SEC. 2. Section 4730.12 is added to the Health and Safety Code, immediately following Section 4730.11, to read:

4730.12. (a) Notwithstanding any other provision of this article, the governing body of the Sacramento Regional County Sanitation District shall be a board of directors composed of all of the following:

(1) The Sacramento County Board of Supervisors.

(2) A member or members of the governing body of each city included in the district, appointed by the governing body of each of those cities.

(3) That member of the Yolo County Board of Supervisors whose supervisorial district includes all, or the greater portion of, the population of the City of West Sacramento.

(b) The governing body of each city located within the district shall appoint a member or members to the board of directors based on that city's population, as follows:

City Population	Number of Board Members
0 to 150,000	1
150,001 to 250,000	2
250,001 to 350,000	3
350,001 to 450,000	4
450,001 to 550,000	5
550,001 to 650,000	6
650,001 to 750,000	7
750,001 and above	8

(c) For the purpose of determining the population of a city, the governing body of each city shall rely on the most recent decennial United States Census or the latest population estimate by the Department of Finance, whichever is more recent.

(d) The governing body of each city located within the district may appoint one of its members to serve as an alternate to act in the absence, inability, or refusal to act, of each appointed member. The Yolo County Board of Supervisors may appoint one of its members to serve as an alternate to act in the absence, inability, or refusal to act, of its member.

(e) (1) Each member or alternate member of the board of directors shall have one vote.

(2) Notwithstanding paragraph (1), if the members of the board of directors constitute an even number and if the vote is tied, the chairperson of the board of directors shall have an additional vote.

SEC. 3. Section 4730.3 of the Health and Safety Code, as added by Section 2 of Chapter 390 of the Statutes of 2001, is repealed.

SEC. 4. Section 4730.3 of the Health and Safety Code, as added by Section 3 of Chapter 390 of the Statutes of 2001, is repealed.

SEC. 5. Due to the unique circumstances concerning the sanitation facilities in the County of Sacramento, the County of Yolo, and adjacent areas, it is necessary that provision be made for representation of affected

areas, and the Legislature finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution.

SEC. 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 are the result of a program for which legislative authority was requested by that local agency or school district, within the meaning of Section 17556 of the Government Code and Section 6 of Article XIII B of the California Constitution.

CHAPTER 200

An act to amend Section 24002.5 of the Government Code, and to amend Sections 217, 217.1, 220.5, 533, and 5365 of, and to repeal Sections 218.1 and 5180 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor July 27, 2004. Filed with
Secretary of State July 27, 2004.]

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

SECTION 1. Section 24002.5 of the Government Code is amended to read:

24002.5. (a) A person may not exercise the powers and duties of the office of assessor unless he or she holds a valid appraiser's certificate issued by the State Board of Equalization pursuant to Article 8 (commencing with Section 670) of Chapter 3 of Part 2 of Division 1 of the Revenue and Taxation Code.

(b) Notwithstanding subdivision (a), a duly elected or appointed person may exercise the powers and duties of assessor, for a period not to exceed one year, if he or she acquires a temporary appraiser's certificate from the State Board of Equalization no later than 30 days after taking office.

(c) This section does not apply to any person holding the office of assessor on January 1, 1997.

SEC. 2. Section 217 of the Revenue and Taxation Code is amended to read:

217. (a) Except as provided in subdivision (d), the following articles of personal property that have been made available for display in a publicly owned art gallery or museum, or a museum that is regularly open to the public and that is operated by a nonprofit organization that

qualifies for exemption pursuant to Section 23701d, shall be exempt from taxation:

(1) Original paintings in oil, mineral, water, vitreous enamel, or other colors, pastels, original mosaics, original drawings and sketches in pen, ink, pencil, or watercolors, or works of the free fine arts in any other media including applied paper and other materials, manufactured or otherwise, that are used on collages, artists' proof etchings unbound, and engravings and woodcuts unbound, lithographs, or prints made by other hand transfer processes unbound, original sculptures or statuary. As used in this subdivision:

(A) "Sculpture" and "statuary" shall include professional productions of sculptors only whether in round or in relief, in bronze, marble, stone, terra cotta, ivory, wood, metal, or other materials, or whether cut, carved, or otherwise wrought by hand from the solid block or mass of marble, stone, alabaster, or from metal, or other materials, or cast in bronze or other metal or substance, or from wax or plaster, or constructed from any material or made in any form as the professional productions of sculptors, only.

(B) "Original" when used to modify the words "sculptures" and "statuary" shall include the original work or model and the first 10 castings, replicas, or reproductions made from the sculptor's original work or model, with or without a change in scale, regardless of whether or not the sculptor is alive at the time the castings, replicas, or reproductions are completed.

(C) "Painting," "mosaic," "drawing," "work of the free fine arts," "sketch," "sculpture," and "statuary" shall not include any articles of utility, articles designed for industrial use, or any articles that are made wholly or in part by stenciling or any other mechanical process.

(D) "Etchings," "engravings," and "woodcuts," "lithographs," or "prints made by other hand transfer processes," shall include only works that are printed by hand from plates, stones or blocks etched, drawn, or engraved with handtools and do not include works that are printed from plates, stones or blocks etched, drawn or engraved by photochemical or other mechanical processes.

(2) Original works of the free fine arts, that are not described in paragraph (1) of this subdivision, are subject to regulations, as the board may prescribe, to prove that the article represents some school, kind, or medium of the free fine arts. As used in this paragraph "original works of the free fine arts" shall not include any article of utility or any article designed for industrial use.

(b) When making a claim for an exemption pursuant to this section, a person claiming the exemption shall provide all information required and answer all questions in an affidavit, under penalty of perjury. The assessor may require other proof of the facts stated before allowing the

exemption. The affidavit shall be accompanied by a certificate of the director or other officer of the art gallery or museum in which the property for which an exemption is claimed under this section was made available for display that the property was available for public display in the art gallery or museum for the period specified in subdivision (e).

(c) The provisions of Sections 255 and 260 shall be applicable to the exemption provided by this section.

(d) The exemption provided by subdivision (a) shall not apply to any work of art loaned by any person who holds works of art primarily for purposes of sale.

(e) The exemption provided by this section shall not apply unless the property was made available for public display in the art gallery or museum for a period of 90 days during the 12-month period immediately preceding the lien date for the year for which the exemption is claimed.

If the property was first made available for public display less than 90 days prior to the lien date, the exemption may be granted if the person claiming the exemption certifies in writing that the property will be made available for public display for at least 90 days during the 12-month period commencing with the first day the property was made available for public display.

(f) For purposes of this section “regularly open to the public” means that the gallery or museum was open to the public not less than 20 hours per week for not less than 35 weeks of the 12-month period immediately preceding the lien date for the year for which the exemption is claimed.

If the gallery or museum has been open for less than 35 weeks during the 12-month period immediately preceding the lien date or for less than 20 hours per week during that period, the exemption may be granted if the director or other officer of the gallery or museum certifies in writing that the gallery or museum will be open for not less than 20 hours per week for not less than 35 weeks during the 12-month period beginning with the day the gallery or museum was first opened.

(g) If a person certifies in writing that the property will be made available and the gallery or museum open for the periods specified in subdivisions (e) and (f), and the property is not so made available or the gallery or museum is not so opened, the exemption shall be canceled, and an escape assessment may be made as provided in Section 531.1.

SEC. 3. Section 217.1 of the Revenue and Taxation Code is amended to read:

217.1. (a) Except as provided in subdivision (d), the following articles of personal property that are made available for display in a publicly owned aerospace museum, or an aerospace museum that is regularly open to the public and that is operated by a nonprofit organization that qualifies for exemption pursuant to Section 23701d, shall be exempt from taxation:

(1) Aircraft that have been restored or maintained, whether currently certified or not for flight purposes.

(2) Aircraft donated in perpetuity to the aerospace museum.

(b) When making a claim for an exemption pursuant to this section, a person claiming the exemption shall give all information required and answer all questions in an affidavit, and shall subscribe and swear to the affidavit, under penalty of perjury. The assessor may require other proof of the facts stated before allowing the exemption. The affidavit shall be accompanied by a certificate of the director or other officer of the aerospace museum in which the property for which an exemption is claimed under this section was made available for display that the property was available for public display in the aerospace museum for the period specified in subdivision (e).

(c) For the 1984–85 assessment year and each assessment year thereafter, the provisions of Sections 255 and 260 shall be applicable to the exemption provided by this section.

(d) The exemption provided by subdivision (a) shall not apply to any aircraft loaned by any person who holds aircraft primarily for purposes of sale.

(e) The exemption provided by this section shall not apply unless the property was made available for public display in the aerospace museum for a period of 90 days during the 12-month period immediately preceding the lien date for the year for which the exemption is claimed.

If the property was first made available for public display less than 90 days prior to the lien date, the exemption may be granted if the person claiming the exemption certifies in writing that the property will be made available for public display for at least 90 days during the 12-month period commencing with the first day the property was made available for public display.

(f) For purposes of this section, “regularly open to the public” means that the aerospace museum was open to the public not less than 20 hours per week for not less than 35 weeks of the 12-month period immediately preceding the lien date for the year for which the exemption is claimed.

If the aerospace museum has been open for less than 35 weeks during the 12-month period immediately preceding the lien date or for less than 20 hours per week during that period, the exemption may be granted if the director or other officer of the aerospace museum certifies in writing that the aerospace museum will be open for not less than 20 hours per week for not less than 35 weeks during the 12-month period beginning with the date the aerospace museum was first opened.

(g) If a person certifies in writing that the property will be made available and the aerospace museum open for the periods specified in subdivisions (e) and (f), and the property is not so made available or the

aerospace museum is not so opened, the exemption shall be canceled, and an escape assessment may be made as provided in Section 531.1.

(h) The exemption provided by this section shall be applicable for the 1979–80 fiscal year and each fiscal year thereafter.

SEC. 4. Section 218.1 of the Revenue and Taxation Code is repealed.

SEC. 5. Section 220.5 of the Revenue and Taxation Code is amended to read:

220.5. (a) Aircraft of historical significance shall be exempt from taxation.

(b) The exemption provided in subdivision (a) applies only if all of the following conditions are satisfied:

(1) The assessee is an individual owner who does not hold the aircraft primarily for purposes of sale.

(2) The assessee does not use the aircraft for commercial purposes or general transportation.

(3) The aircraft is available for display to the public at least 12 days during the 12-month period immediately preceding the lien date for the year for which the exemption is claimed. If the aircraft was first made available for public display less than 12 days prior to the lien date, the exemption may be granted if the claimant certifies in writing that the aircraft will be made available for public display at least 12 days during the 12-month period commencing with the first day the property was made available for public display. When applying for an exemption pursuant to this section, the claimant shall attach to that application a certificate of attendance from the event coordinator of the event at which the aircraft was displayed as required by this paragraph.

(c) When claiming an exemption pursuant to this section, the claimant shall provide all information required and answer all questions contained in an affidavit furnished by the assessor. The claimant shall sign the affidavit, under penalty of perjury. The assessor may require additional proof of the information or answers provided in the affidavit before allowing the exemption.

(d) For purposes of this section, “aircraft of historical significance” means any aircraft that is an original, restored, or replica of a heavier than air powered aircraft that is 35 years or older or any aircraft of a type or model of which there are fewer than five in number known to exist worldwide.

(e) A fee of thirty-five dollars (\$35) shall be charged and collected by the assessor upon the initial application for an exemption pursuant to this section.

SEC. 6. Section 533 of the Revenue and Taxation Code is amended to read:

533. (a) If an escape assessment is made as a result of an audit that discloses that property assessed to the party audited has been incorrectly assessed either for a past tax year for which taxes have been paid and a claim for refund is not barred by Section 5097 or for any tax year for which the taxes are unpaid, the tax refunds resulting from the incorrect assessments shall be an offset against proposed tax liabilities, including accumulated penalties and interest, resulting from escaped assessments for any tax year covered by the audit.

(b) If a tax refund, authorized under this section exceeds any proposed tax liabilities, including accumulated penalties and interest, the party audited shall be notified by the tax collector of the amount of the excess and of the fact that a claim for cancellation or refund may be filed with the county as provided by Section 5096 or 5096.7.

SEC. 7. Section 5180 of the Revenue and Taxation Code is repealed.

SEC. 8. Section 5365 of the Revenue and Taxation Code is amended to read:

5365. Upon request of the assessor of the county in which an aircraft is habitually based, the owner shall file with the assessor a statement setting forth information about the aircraft that is necessary to ascertain the full value of the aircraft, including, but not limited to, the serial number, the make, model, year of manufacture of the aircraft, and engine and maintenance information, including the total hours logged on the aircraft following the last major overhaul of the engine of the aircraft.

SEC. 9. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 201

An act to amend Section 5101.8 of the Vehicle Code, relating to vehicles.

[Approved by Governor July 27, 2004. Filed with
Secretary of State July 27, 2004.]

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

SECTION 1. Section 5101.8 of the Vehicle Code is amended to read:

5101.8. (a) Any person otherwise eligible under this article who is a Purple Heart recipient may apply for special license plates for vehicles that are not used for transportation for hire, compensation, or profit, under this article. The special plates assigned to the vehicle shall run in a separate numerical series, shall have inscribed on the plate the Purple Heart insignia, and shall contain the words "Combat Wounded" and "Purple Heart" or at least the letters "PH" as part of the numerical series. The department shall reserve and issue the special plates to all applicants providing the proof required by subdivision (b).

(b) The applicant, by satisfactory proof, shall show that the applicant is a Purple Heart recipient.

(c) Special plates may be issued pursuant to subdivision (a) only for a vehicle owned or coowned by a Purple Heart recipient.

(d) Upon the death of a person issued special license plates pursuant to this section, his or her surviving spouse may retain the special license plates subject to the conditions set forth in this section. Upon the death of the spouse, the retained, special license plates shall be returned to the department either (1) within 60 days following that death or (2) upon the expiration of the vehicle registration, whichever occurs first.

(e) When an applicant for the Purple Heart license plate qualifies as a disabled veteran, as specified in subdivision (b) of Section 22511.55, the applicant may also apply for a distinguishing placard described in subdivision (a) of Section 22511.55 to be used in conjunction with the Purple Heart license plate for the purpose of allowing special parking privileges pursuant to subdivision (a) of Section 22511.5.

(f) Sections 5106 and 5108 do not apply to this section.

CHAPTER 202

An act to amend Section 6516.9 of the Government Code, relating to joint exercise of powers.

[Approved by Governor July 27, 2004. Filed with
Secretary of State July 27, 2004.]

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

SECTION 1. Section 6516.9 of the Government Code is amended to read:

6516.9. Notwithstanding any other provision of law, a joint powers agency or entity provided for by a joint powers agreement pursuant to this article, the members of which may conduct agricultural, livestock, industrial, cultural, or other types of fairs and exhibitions, or educational programs and activities, may establish and administer risk pooling arrangements for the payment of liability losses, workers' compensation losses, and other types of losses incurred by members of the joint powers agency or entity and by nonprofit corporations conducting or benefiting agricultural, livestock, industrial, cultural, or other types of fairs and exhibitions, or educational programs and activities, and by members of the joint powers agency or entity and by nonprofit corporations or auxiliary organizations operating facilities, programs, or events at public schools, the California Community Colleges, the California State University, or the University of California. For purposes of this section, one or more public agencies and one or more nonprofit corporations or auxiliary organizations operating facilities, programs, or events at public schools, the California Community Colleges, the California State University, or the University of California may enter into a joint powers agreement. The joint powers agency or entity may provide the nonprofit corporations with any services or nonrisk pooling programs provided to the agency's or entity's members. Aggregate payments made under each risk pooling arrangement shall not exceed the amount available in the pool established for that arrangement. The joint powers agency or entity may establish and administer as many separate risk pooling arrangements as it deems desirable. A liability risk pooling arrangement established pursuant to this section also may provide for the payment of losses incurred by special events users, lessees, and licensees of facilities operated by nonprofit corporations, auxiliary organizations, public schools, the California Community Colleges, the California State University, or the University of California and for the payment of losses incurred by employees, participants and exhibitors in programs sponsored by those entities.

CHAPTER 203

An act to amend Section 21461 of the Vehicle Code, relating to vehicles.

[Approved by Governor July 27, 2004. Filed with
Secretary of State July 27, 2004.]

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

SECTION 1. Section 21461 of the Vehicle Code is amended to read: 21461. (a) It is unlawful for a driver of a vehicle to fail to obey a sign or signal defined as regulatory in the federal Manual on Uniform Traffic Control Devices, or a Department of Transportation approved supplement to that manual of a regulatory nature erected or maintained to enhance traffic safety and operations or to indicate and carry out the provisions of this code or a local traffic ordinance or resolution adopted pursuant to a local traffic ordinance, or to fail to obey a device erected or maintained by lawful authority of a public body or official.

(b) Subdivision (a) does not apply to acts constituting violations under Chapter 9 (commencing with Section 22500) of this division or to acts constituting violations of a local traffic ordinance adopted pursuant to Chapter 9 (commencing with Section 22500).

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 204

An act to amend Sections 4980.02, 4980.43, 4980.44, and 4987.7 of, to amend the heading of Chapter 13 (commencing with Section 4980) of Division 2 of, and to amend the heading of Article 6 (commencing with Section 4987.5) of Chapter 13 of Division 2 of, the Business and Professions Code, relating to marriage and family therapy.

[Approved by Governor July 27, 2004. Filed with
Secretary of State July 27, 2004.]

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

SECTION 1. The heading of Chapter 13 (commencing with Section 4980) of Division 2 of the Business and Professions Code is amended to read:

CHAPTER 13. MARRIAGE AND FAMILY THERAPISTS

SEC. 2. Section 4980.02 of the Business and Professions Code is amended to read:

4980.02. For the purposes of this chapter, the practice of marriage and family therapy shall mean that service performed with individuals, couples, or groups wherein interpersonal relationships are examined for the purpose of achieving more adequate, satisfying, and productive marriage and family adjustments. This practice includes relationship and premarriage counseling.

The application of marriage and family therapy principles and methods includes, but is not limited to, the use of applied psychotherapeutic techniques, to enable individuals to mature and grow within marriage and the family, the provision of explanations and interpretations of the psychosexual and psychosocial aspects of relationships, and the use, application, and integration of the coursework and training required by Sections 4980.37, 4980.40, and 4980.41.

SEC. 3. Section 4980.43 of the Business and Professions Code is amended to read:

4980.43. (a) For all applicants, a minimum of two calendar years of supervised experience is required, which experience shall consist of 3,000 hours obtained over a period of not less than 104 weeks. Not less than 1,500 hours of experience shall be gained subsequent to the granting of the qualifying master's or doctor's degree. For those applicants who enroll in a qualifying degree program on or after January 1, 1995, not more than 750 hours of counseling and direct supervisor contact may be obtained prior to the granting of the qualifying master's or doctor's degree. However, this limitation shall not be interpreted to include professional enrichment activities. Except for personal psychotherapy hours gained after enrollment and commencement of classes in a qualifying degree program, no hours of experience may be gained prior to becoming a trainee. All experience shall be gained within the six years immediately preceding the date the application for licensure was filed, except that up to 500 hours of clinical experience gained in the supervised practicum required by subdivision (b) of Section 4980.40 shall be exempt from this six-year requirement.

(b) All applicants, trainees, and registrants shall be at all times under the supervision of a supervisor who shall be responsible for ensuring that the extent, kind, and quality of counseling performed is consistent with the training and experience of the person being supervised, and who shall be responsible to the board for compliance with all laws, rules, and regulations governing the practice of marriage and family therapy. Experience shall be gained by interns and trainees either as an employee or as a volunteer in any allowable work setting specified in this chapter.

The requirements of this chapter regarding gaining hours of experience and supervision are applicable equally to employees and volunteers. Experience shall not be gained by interns or trainees as an independent contractor.

(c) Supervision shall include at least one hour of direct supervisor contact for each week of experience claimed. A trainee shall receive an average of at least one hour of direct supervisor contact for every five hours of client contact in each setting. A person gaining postdegree experience shall receive an average of at least one hour of direct supervisor contact for every 10 hours of client contact in each setting in which experience is gained. For purposes of this section, "one hour of direct supervisor contact" means one hour of face-to-face contact on an individual basis or two hours of face-to-face contact in a group of not more than eight persons. The contact may be counted toward the experience requirement for licensure, up to the maximum permitted by subdivision (d). All experience gained by a trainee shall be monitored by the supervisor as specified by regulation. The 5 to 1 and 10 to 1 ratios specified in this subdivision shall be applicable to all hours gained on or after January 1, 1995.

(d) (1) The experience required by Section 4980.40 shall include supervised marriage and family therapy, and up to one-third of the hours may include direct supervisor contact and other professional enrichment activities.

(2) "Professional enrichment activities," for the purposes of this section, may include group, marital or conjoint, family, or individual psychotherapy received by an applicant. This psychotherapy may include up to 100 hours taken subsequent to enrolling and commencing classes in a qualifying degree program, or as an intern, and each of those hours shall be triple counted toward the professional experience requirement. This psychotherapy shall be performed by a licensed marriage and family therapist, licensed clinical social worker, licensed psychologist, licensed physician and surgeon certified in psychiatry by the American Board of Psychiatry and Neurology, or a licensed physician and surgeon who has completed a residency in psychiatry.

(e) (1) A trainee may gain the experience required by subdivision (f) of Section 4980.40 in any setting that meets all of the following:

(A) Lawfully and regularly provides mental health counseling or psychotherapy.

(B) Provides oversight to ensure that the trainee's work at the setting meets the experience and supervision requirements set forth in this chapter and is within the scope of practice for the profession as defined in Section 4980.02.

(C) Is not a private practice owned by a licensed marriage and family therapist, a licensed psychologist, a licensed clinical social worker, a

licensed physician and surgeon, or a professional corporation of any of those licensed professions.

(2) Experience may be gained by the trainee solely as part of the position for which the trainee volunteers or is employed.

(f) (1) An intern may gain the experience required by subdivision (f) of Section 4980.40 in any setting that meets both of the following:

(A) Lawfully and regularly provides mental health counseling or psychotherapy.

(B) Provides oversight to ensure that the intern's work at the setting meets the experience and supervision requirements set forth in this chapter and is within the scope of practice for the profession as defined in Section 4980.02.

(2) An applicant shall not be employed or volunteer in a private practice, as defined in subparagraph (C) of paragraph (1) of subdivision (e), until registered as an intern.

(3) While an intern may be either a paid employee or a volunteer, employers are encouraged to provide fair remuneration to interns.

(4) Except for periods of time during a supervisor's vacation or sick leave, an intern who is employed or volunteering in private practice shall be under the direct supervision of a licensee enumerated in subdivision (f) of Section 4980.40. The supervising licensee shall either be employed by and practice at the same site as the intern's employer, or shall be an owner or shareholder of the private practice. Alternative supervision may be arranged during a supervisor's vacation or sick leave if the supervision meets the requirements of this section.

(5) Experience may be gained by the intern solely as part of the position for which the intern volunteers or is employed.

(g) All persons shall register with the board as an intern in order to be credited for postdegree hours of experience gained toward licensure, regardless of the setting where those hours are to be gained. Except as provided in subdivision (h), all postdegree hours shall be gained as a registered intern.

(h) Except when employed in a private practice setting, all postdegree hours of experience shall be credited toward licensure so long as the applicant applies for the intern registration within 90 days of the granting of the qualifying master's or doctor's degree and is thereafter granted the intern registration by the board.

(i) Trainees, interns, and applicants shall not receive any remuneration from patients or clients, and shall only be paid by their employers.

(j) Trainees, interns, and applicants shall only perform services at the place where their employers regularly conduct business, which may include performing services at other locations, so long as the services are performed under the direction and control of their employer and

supervisor, and in compliance with the laws and regulations pertaining to supervision. Trainees and interns shall have no proprietary interest in the employer's business.

(k) Trainees, interns, or applicants who provide volunteered services or other services, and who receive no more than a total, from all work settings, of five hundred dollars (\$500) per month as reimbursement for expenses actually incurred by those trainees, interns, or applicants for services rendered in any lawful work setting other than a private practice shall be considered an employee and not an independent contractor. The board may audit applicants who receive reimbursement for expenses, and the applicants shall have the burden of demonstrating that the payments received were for reimbursement of expenses actually incurred.

(l) Each educational institution preparing applicants for licensure pursuant to this chapter shall consider requiring, and shall encourage, its students to undergo individual, marital or conjoint, family, or group counseling or psychotherapy, as appropriate. Each supervisor shall consider, advise, and encourage his or her interns and trainees regarding the advisability of undertaking individual, marital or conjoint, family, or group counseling or psychotherapy, as appropriate. Insofar as it is deemed appropriate and is desired by the applicant, the educational institution and supervisors are encouraged to assist the applicant in locating that counseling or psychotherapy at a reasonable cost.

SEC. 4. Section 4980.44 of the Business and Professions Code is amended to read:

4980.44. (a) An unlicensed marriage and family therapist intern employed under this chapter shall:

(1) Have earned at least a master's degree as specified in Section 4980.40.

(2) Be registered with the board prior to the intern performing any duties, except as otherwise provided in subdivision (e) of Section 4980.43.

(3) File for renewal of registration annually for a maximum of five years after initial registration with the board. Renewal of registration shall include filing an application for renewal, paying a renewal fee of seventy-five dollars (\$75), and notifying the board whether he or she has been convicted, as defined in Section 490, of a misdemeanor or felony, or whether any disciplinary action has been taken by any regulatory or licensing board in this or any other state, subsequent to the issuance of the initial registration or the registrant's last renewal.

(4) Inform each client or patient prior to performing any professional services that he or she is unlicensed and under the supervision of a licensed marriage and family therapist, licensed clinical social worker,

licensed psychologist, or a licensed physician and surgeon certified in psychiatry by the American Board of Psychiatry and Neurology.

(5) Continued employment as an unlicensed marriage and family therapist intern shall cease after six years unless the requirements of subdivision (b) are met. No registration shall be renewed or reinstated beyond the six years from initial issuance regardless of whether it has been revoked.

(b) When no further renewals are possible, an applicant may apply for and obtain new intern registration status if the applicant meets the educational requirements for registration in effect at the time of the application for a new intern registration. An applicant who is issued a subsequent intern registration pursuant to this subdivision may be employed or volunteer in any allowable work setting except private practice.

SEC. 5. The heading of Article 6 (commencing with Section 4987.5) of Chapter 13 of Division 2 of the Business and Professions Code is amended to read:

Article 6. Marriage and Family Therapy Corporations

SEC. 6. Section 4987.7 of the Business and Professions Code is amended to read:

4987.7. The name of a marriage and family therapy corporation shall contain one or more of the words "marriage," "family," or "child" together with one or more of the words "counseling," "counselor," "therapy," or "therapist," and wording or abbreviations denoting corporate existence. A marriage and family therapy corporation that conducts business under a fictitious business name shall not use any name that is false, misleading or deceptive, and shall inform the patient, prior to the commencement of treatment, that the business is conducted by a marriage and family therapy corporation.

CHAPTER 205

An act to amend Section 2836.1 of the Business and Professions Code, relating to nursing.

[Approved by Governor July 27, 2004. Filed with
Secretary of State July 27, 2004.]

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

SECTION 1. Section 2836.1 of the Business and Professions Code is amended to read:

2836.1. Neither this chapter nor any other provision of law shall be construed to prohibit a nurse practitioner from furnishing or ordering drugs or devices when all of the following apply:

(a) The drugs or devices are furnished or ordered by a nurse practitioner in accordance with standardized procedures or protocols developed by the nurse practitioner and the supervising physician and surgeon when the drugs or devices furnished or ordered are consistent with the practitioner's educational preparation or for which clinical competency has been established and maintained.

(b) The nurse practitioner is functioning pursuant to standardized procedure, as defined by Section 2725, or protocol. The standardized procedure or protocol shall be developed and approved by the supervising physician and surgeon, the nurse practitioner, and the facility administrator or the designee.

(c) (1) The standardized procedure or protocol covering the furnishing of drugs or devices shall specify which nurse practitioners may furnish or order drugs or devices, which drugs or devices may be furnished or ordered, under what circumstances, the extent of physician and surgeon supervision, the method of periodic review of the nurse practitioner's competence, including peer review, and review of the provisions of the standardized procedure.

(2) In addition to the requirements in paragraph (1), for Schedule II controlled substance protocols, the provision for furnishing Schedule II controlled substances shall address the diagnosis of the illness, injury, or condition for which the Schedule II controlled substance is to be furnished.

(d) The furnishing or ordering of drugs or devices by a nurse practitioner occurs under physician and surgeon supervision. Physician and surgeon supervision shall not be construed to require the physical presence of the physician, but does include (1) collaboration on the development of the standardized procedure, (2) approval of the standardized procedure, and (3) availability by telephonic contact at the time of patient examination by the nurse practitioner.

(e) For purposes of this section, no physician and surgeon shall supervise more than four nurse practitioners at one time.

(f) (1) Drugs or devices furnished or ordered by a nurse practitioner may include Schedule II through Schedule V controlled substances under the California Uniform Controlled Substances Act (Division 10 (commencing with Section 11000) of the Health and Safety Code) and shall be further limited to those drugs agreed upon by the nurse

practitioner and physician and surgeon and specified in the standardized procedure.

(2) When Schedule II or III controlled substances, as defined in Sections 11055 and 11056, respectively, of the Health and Safety Code, are furnished or ordered by a nurse practitioner, the controlled substances shall be furnished or ordered in accordance with a patient-specific protocol approved by the treating or supervising physician. A copy of the section of the nurse practitioner's standardized procedure relating to controlled substances shall be provided, upon request, to any licensed pharmacist who dispenses drugs or devices, when there is uncertainty about the nurse practitioner furnishing the order.

(g) (1) The board has certified in accordance with Section 2836.3 that the nurse practitioner has satisfactorily completed (1) at least six month's physician and surgeon-supervised experience in the furnishing or ordering of drugs or devices and (2) a course in pharmacology covering the drugs or devices to be furnished or ordered under this section.

(2) Nurse practitioners who are certified by the board and hold an active furnishing number, who are authorized through standardized procedures or protocols to furnish Schedule II controlled substances, and who are registered with the United States Drug Enforcement Administration, shall complete, as part of their continuing education requirements, a course including Schedule II controlled substances based on the standards developed by the board. The board shall establish the requirements for satisfactory completion of this subdivision.

(h) Use of the term "furnishing" in this section, in health facilities defined in Section 1250 of the Health and Safety Code, shall include (1) the ordering of a drug or device in accordance with the standardized procedure and (2) transmitting an order of a supervising physician and surgeon.

(i) "Drug order" or "order" for purposes of this section means an order for medication which is dispensed to or for an ultimate user, issued by a nurse practitioner as an individual practitioner, within the meaning of Section 1306.02 of Title 21 of the Code of Federal Regulations. Notwithstanding any other provision of law, (1) a drug order issued pursuant to this section shall be treated in the same manner as a prescription of the supervising physician; (2) all references to "prescription" in this code and the Health and Safety Code shall include drug orders issued by nurse practitioners; and (3) the signature of a nurse practitioner on a drug order issued in accordance with this section shall be deemed to be the signature of a prescriber for purposes of this code and the Health and Safety Code.

SEC. 2. 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 Sections 10404.5 and 10405.7 of the Elections Code, relating to elections, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 27, 2004. Filed with
Secretary of State July 27, 2004.]

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

SECTION 1. Section 10404.5 of the Elections Code is amended to read:

10404.5. (a) A resolution of the governing board of a school district or county board of education to establish an election day pursuant to subdivision (b) of Section 1302 shall be adopted and submitted to the board of supervisors not later than 240 days prior to the date of the currently scheduled election of the district or the members of the county board of education.

(b) The final date for the submission of the resolution by the governing board of a school district or county board of education to the board of supervisors is not subject to waiver.

(c) The board of supervisors shall notify all school districts and the county board of education located in the county of the receipt of the resolution to consolidate and shall request input from each district on the effect of consolidation.

(d) (1) The board of supervisors, within 60 days from the date of receipt, shall approve the resolution unless it finds that the ballot style, voting equipment, or computer capacity cannot handle additional elections or materials. Prior to the adoption of a resolution to either approve or deny a consolidation request, the board or boards of supervisors may obtain from the elections official a report on the cost-effectiveness of the proposed action.

(2) Public notices of the proceedings in which the resolution is to be considered for adoption shall be made pursuant to Section 25151 of the Government Code.

(e) Within 30 days after the approval of the resolution by the board of supervisors, the elections official shall notify all registered voters of the districts affected by the consolidation of the approval of the resolution by the board of supervisors. The notice shall be delivered by mail and at the expense of the school district or, if applicable, the county board of education.

(f) (1) An election day established pursuant to subdivision (b) of Section 1302 shall be prescribed to occur not less than one month, nor more than 12 months, subsequent to the election day prescribed in Section 5000 of the Education Code or pursuant to Section 1007 of the Education Code, as appropriate.

(2) As used in this subdivision, "12 months" means the period from the election day prescribed in Section 5000 of the Education Code or pursuant to Section 1007 of the Education Code, as appropriate, to the first Tuesday after the first Monday in the 12th month subsequent to that election day, inclusive.

(g) If the election day for a school district governing board or county board of education is established pursuant to subdivision (b) of Section 1302, the term of office of all then incumbent members of that governing board or county board of education shall be extended accordingly.

(h) In recognition of the state and local interests served by the action made optional in subdivision (d), the Legislature encourages the local agency to continue taking the action formerly mandated by that subdivision.

SEC. 2. Section 10405.7 of the Elections Code is amended to read:

10405.7. (a) The resolution of the community college district governing board to establish an election day pursuant to subdivision (b) of Section 1302 shall be adopted and submitted to the board of supervisors not later than 240 days prior to the date of the currently scheduled election for the governing board members of the community college district.

(b) The final date for the submission of the resolution by the community college district governing board to the board of supervisors may not be waived.

(c) The board of supervisors shall notify all community college districts located in the county of the receipt of the resolution to consolidate and shall request input from each district on the effect of consolidation.

(d) (1) The board of supervisors, within 60 days from the date of receipt, shall approve the resolution unless it finds that the ballot style, voting equipment, or computer capacity cannot handle additional

elections or materials. Prior to the adoption of a resolution to either approve or deny a consolidation request, the board or boards of supervisors may each obtain from the elections official a report on the cost-effectiveness of the proposed action.

(2) Public notices of the proceedings in which the resolution is to be considered for adoption shall be made pursuant to Section 25151 of the Government Code.

(e) Within 30 days after the approval of the resolution by the board of supervisors, the elections official shall notify all registered voters of the districts affected by the consolidation of the approval of the resolution by the board of supervisors. The notice shall be delivered by mail and at the expense of the community college district.

(f) (1) An election day established pursuant to subdivision (b) of Section 1302 shall be prescribed to occur not less than one month, nor more than 12 months, subsequent to the election day prescribed in Section 5000.

(2) As used in this subdivision, "12 months" means the period from the election day prescribed in Section 5000 of the Education Code to the first Tuesday after the first Monday in the 12th month subsequent to that election day, inclusive.

(g) If, pursuant to subdivision (b) of Section 1302, a district governing board member election is held on the same day as a statewide general election, those district governing board members whose four-year terms of office would have, prior to the adoption of the resolution, expired prior to that election shall, instead, continue in their offices until successors are elected and qualified.

(h) In recognition of the state and local interests served by the action made optional in subdivision (d), the Legislature encourages the local agency to continue taking the action formerly mandated by that subdivision.

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 make the necessary statutory changes to implement the Budget Act of 2003 at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 207

An act to amend Section 85401 of the Government Code, relating to the Political Reform Act of 1974.

[Approved by Governor July 27, 2004. Filed with
Secretary of State July 27, 2004.]

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

SECTION 1. Section 85401 of the Government Code, as amended by Chapter 9 of the Statutes of 2004, is amended to read:

85401. (a) Each candidate for elective state office shall file a statement of acceptance or rejection of the voluntary expenditure limits set forth in Section 85400 at the time he or she files the statement of intention specified in Section 85200.

(b) A candidate may, until the deadline for filing nomination papers set forth in Section 8020 of the Elections Code, change his or her statement of acceptance or rejection of voluntary expenditure limits provided he or she has not exceeded the voluntary expenditure limits. A candidate may not change his or her statement of acceptance or rejection of voluntary expenditure limits more than twice after the candidate's initial filing of the statement of intention for that election and office.

(c) Any candidate for elective state office who declined to accept the voluntary expenditure limits but who nevertheless does not exceed the limits in the primary, special primary, or special election, may file a statement of acceptance of the expenditure limits for a general or special runoff election within 14 days following the primary, special primary, or special election.

(d) Notwithstanding Section 81004.5 or any other provision of this title, a candidate may not change his or her statement of acceptance or rejection of voluntary expenditure limits other than as provided for by this section and Section 85402.

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 208

An act making appropriations for the support of the government of the State of California and for several public purposes in accordance with the provisions of Section 12 of Article IV of the Constitution of the State of California, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor July 31, 2004. Filed with Secretary of State July 31, 2004.]

I object to the following appropriations contained in Senate Bill 1113.

Item 0555-001-0028—For support of Secretary for Environmental Protection. I reduce this item from \$1,444,000 to \$982,000.

I am deleting the \$462,000 legislative augmentation to assist the metal plating industry in complying with existing state regulations regarding the disposal of hazardous waste containing hexavalent chromium. This reduction is necessary to limit program expansions and provide for a prudent fund reserve in light of the declining balance in the Unified Program Account.

Item 0555-001-0044—For support of Secretary for Environmental Protection. I revise this item by reducing:

(1) 30-Support from \$10,113,000 to \$8,151,000;

(5) Amount payable from the Unified Program Account (Item 0555-001-0028) from -\$1,444,000 to -\$982,000;

and by deleting:

(11.5) Amount payable from the Hazardous Waste Reduction Loan Account (Item 0555-001-0828) (-1,500,000).

I am revising this item to conform to the actions I have taken in Items 0555-001-0028 and 0555-001-0828.

Item 0555-001-0828—For support of Secretary for Environmental Protection. I delete this item and Provision 1.

I am deleting the \$1,500,000 legislative augmentation to assist the metal plating industry in complying with existing state regulations regarding the disposal of hazardous waste containing hexavalent chromium. While certified unified program agencies are intended to assist businesses, it is not appropriate to single out a particular industry for special assistance for failure to comply with environmental rules.

Item 0690-102-0001—For local assistance, Office of Emergency Services.

I am sustaining the \$2,000,000 legislative augmentation related to funding 10 domestic violence programs. This augmentation will ensure services for domestic violence victims are protected in all communities. However, I am directing the Office of Emergency Service (OES) to incorporate these funds into the existing funding for domestic violence shelters and allow the 10 shelters to obtain funding through the grant process currently administered by OES. Providing a separate appropriation for these 10 particular shelters would create an inequitable process, and would allocate more funding per shelter compared to the other 75 shelters that receive funding.

Item 1111-003-0001—For support of Consumer Affairs. I reduce this item from \$450,000 to \$365,000 by reducing:

(1) 40-Office of Privacy Protection from \$485,000 to \$400,000.

I am deleting the \$85,000 legislative augmentation which would provide funding for the Office of Privacy Protection. Given the fiscal condition of the State, this reduction is necessary to help build a prudent reserve and bring ongoing expenditures in line with existing resources over the longer term.

Item 1760-492—Reappropriation, Department of General Services. I revise this item by deleting Schedule (2.5).

I am eliminating the availability of funding provided to the City of Oakland for the seismic retrofit of the Police Administration Building. Funds have been available since 1994 and the city is still unable to provide the required matching funds to receive the resources. If the city is able to commit the funds in the future, I will reconsider this request.

Item 1880-001-0001—For support of State Personnel Board. I reduce this item from \$3,888,000 to \$3,753,000 by reducing:

(3) 50.01-Administrative Services from \$2,798,000 to \$2,663,000.

In recognition of potential workload increases associated with the end of the hiring freeze, I am sustaining \$465,000 of this \$600,000 legislative augmentation to provide funding for staff in the Bilingual Services Unit, the Appeals Division, the Examination Services Unit, and for information technology services. I am deleting the \$135,000 for temporary help and related costs. In addition, I am directing the State Personnel Board to develop performance-based measures to evaluate its effectiveness.

Item 2240-105-0001—For transfer to the Emergency Housing and Assistance Fund. I reduce this item from \$5,300,000 to \$4,000,000.

I am reducing the \$1,300,000 legislative augmentation for transfer from the General Fund to the Emergency Housing and Assistance Fund to help build a prudent reserve and bring ongoing expenditures in line with existing resources over the longer term. With these reductions, \$4,000,000 still remains to support the Emergency Housing and Assistance Program (EHAP), which grants funding to local agencies that provide homeless shelter beds and related services.

Item 2240-490—Reappropriation, Department of Housing and Community Development. I delete this item.

I am deleting the reappropriation of \$400,000 in grant funds originally made available in 2001 but never spent by the City of Orange Cove. The 2004–05-budget plan assumes that these funds as well as others that reverted to the General Fund on July 1, 2004, would be available as a resource for the 2004–05 budget.

Item 2600-001-0042—For support of California Transportation Commission. I reduce this item from \$651,000 to \$613,000.

I am reducing this item by \$38,000 to conform to the action I have taken in Item 2660-001-0046.

Item 2600-001-0046—For support of California Transportation Commission. I reduce this item from \$1,000,000 to \$932,000 by reducing:

(1) 10-Administration of California Transportation Commission from \$1,651,000 to \$1,545,000, and

(2) Amount payable from the State Highway Account, State Transportation Fund (Item 2600-001-0042) from –\$651,000 to –\$613,000.

I am deleting the \$106,000 legislative augmentation to increase staffing at the Commission to restore a Legislative Deputy position that was eliminated in 2003–04 subsequent to being vacant for one year. Given the fiscal condition of the State, this reduction is necessary to bring ongoing expenditures in line with existing resources over the longer term.

Item 2665-001-0046—For support of High Speed Rail Authority. I reduce this item from \$1,819,000 to \$1,099,000 and by deleting Provision 1.

I am deleting the \$720,000 legislative augmentation for the completion of the final draft of the High Speed Rail Environmental Impact Report (EIR). The Authority has been fully funded to complete the EIR but reports that it redirected a portion of these funds to the draft EIR when required to perform additional work on that document by federal agencies. Given the fiscal condition of the State, this reduction is necessary to bring ongoing expenditures in line with existing resources over the longer term.

I am also revising this item by deleting Provision 1. This provision would have restricted the use of \$300,000 of this item to the legal defense of the environmental documents. By deleting this language I am providing the Authority with the budgetary flexibility it will need to meet its priorities.

Item 3340-001-0001—For support of California Conservation Corps. I reduce this item from \$25,373,000 to \$23,773,000 by reducing:

(1) 10-Training and Work Program from \$57,256,000 to \$55,656,000.

I am reducing this item by \$1,600,000 and 14 positions for the operation of the Ukiah residential facility. The California Conservation Corps is a valuable program that helps protect the environment and promote leadership skills for young men and women. However, in light of the State's current fiscal condition, the Ukiah residential facility was selected for conversion to a non-residential facility after a thorough review of all facilities because there are two other Corps residential facilities, Leggett and Shasta Pacific, nearby that also provide services to the Ukiah area. After the conversion, 15 corps members and one Corps employee will remain at the facility.

Item 3790-494—Reappropriation, Department of Parks and Recreation. I delete this item.

I am deleting this legislative reappropriation for three local parks projects. I am deleting the General Fund reappropriation for the renovation and repair of the La Palma Community Center. Given the fiscal condition of the State, this reduction is necessary to help build a prudent reserve and bring ongoing expenditures in line with existing resources over the longer term. I am also deleting the reappropriation of Proposition 12 bond funds for the Paxton-Arleta Softball/Soccer Field. This use of Proposition 12 bond funds is inconsistent with the purpose for which the funds were originally appropriated and therefore not eligible for reappropriation. Finally, I am deleting the reappropriation for the Community Build Youth Center. These bond funds were appropriated in the Budget Act of 2000 and more than adequate time has passed for the funds to be expended for this purpose.

Item 3940-001-0001—For support of State Water Resources Control Board. I revise this item by reducing:

(1) 10-Water Quality from \$387,080,000 to \$386,878,000, and

(7) Amount payable from the Waste Discharge Permit Fund (Item 3940-001-0193) from -\$55,913,000 to -\$55,711,000.

I am revising this item to conform to the action I have taken in Item 3940-001-0193.

Item 3940-001-0193—For support of State Water Resources Control Board. I reduce this item from \$55,913,000 to \$55,711,000.

I am deleting the \$202,000 legislative augmentation for activities related to the development of statewide septic tank system standards. The State Water Resources Control Board will continue its efforts to develop the standards with the remaining \$287,000 during 2004-05, and will not need the additional resources provided by this augmentation.

Item 4260-001-0001—For support of Department of Health Services. I delete Provision 3 of this item to make a technical correction to the Budget Bill.

Provision 3 in Item 4260-001-0001 refers to provisional language in Item 4260-111-0001 that was removed from the Budget Bill, and is therefore no longer necessary.

Item 4260-001-0890—For support of Department of Health Services. I delete Provision 5.

I am deleting Provision 5, which would require the Department of Health Services (DHS) to include in its application for funding from the federal Centers for Disease Control and Prevention's (CDC) Public Health Preparedness and Responses to Bio-terrorism Program a request for the establishment of reporting procedures for low-level radioactive waste. Notwithstanding the merits of reporting low-level radioactive waste, this request is outside the scope of the State's Cooperative Agreement with the CDC. Including this provision in the application will likely delay the availability of federal funds.

Item 4260-101-0001—For local assistance, Department of Health Services. I reduce this item from \$11,728,217,000 to \$11,727,467,000 by reducing:

(3) 20.10.030-Benefits (Medical Care and Services) from \$28,531,016,000 to \$28,529,516,000;

(6) Amount payable from the Federal Trust Fund (Item 4260-101-0890) from $-\$185,577,411,000$ to $-\$18,576,661,000$; and by deleting Provision 15.

While I recognize the important services that these pharmacies provide to Californians living with HIV/AIDS, I am reducing this item by \$750,000 and deleting this provision because providing additional Medi-Cal pharmacy compensation to HIV/AIDS clinics would create unacceptable program inequities that will lead to unnecessary litigation against the State. The budget will ensure that those suffering with HIV/AIDS will continue to have access to critically important drugs.

The concept of a reimbursement model that incorporates the features identified in this proposal should be considered as part of an overall analysis of Medi-Cal provider reimbursement.

I am also deleting a \$750,000 augmentation from the Federal Trust Fund in Item 4260-101-0890 to conform to this action.

In order to correct a technical error in the Budget Bill, I am also reducing the amount payable from the Federal Trust Fund (Item 4260-101-0890) by \$167,000,000,000.

Item 4260-101-0890—For local assistance, Department of Health Services. I reduce this item from $\$18,577,411,000$ to $\$18,576,661,000$ and delete Provision 2.

I am reducing this item by \$750,000 to conform to my action in Item 4260-101-0001.

I am deleting Provision 2 because it is not possible to obtain federal matching funds without first spending General Fund resources, which have not been appropriated for this purpose. Provision 2 would require the Department of Health Services to expand the scope of the federally required LA County Health Department audit to include an unrelated audit.

Item 4440-101-0001—For local assistance, Department of Mental Health. I reduce this item from $\$79,676,000$ to $\$59,718,000$ by reducing:

- (1) 10.25-Community Services—Other Treatment from $\$1,439,054,000$ to $\$1,438,746,000$; and
- (1.5) 10.47-Community Services—Children’s Mental Health Services from $\$20,000,000$ to $\$350,000$.

I am reducing this item by \$308,000 to eliminate supplemental funding to thirteen counties that is used to match federal rehabilitation funds. This action prioritizes the limited funding available for other mental health programs that reach all or most counties, and is necessary to help build a prudent reserve and bring ongoing expenditures in line with existing resources over the long term.

I am reducing by \$19,650,000 the \$20,000,000 legislative augmentation to restore funding for the Children’s System of Care program. This action is necessary to help build a prudent reserve and bring ongoing expenditures in line with existing resources over the long term. \$350,000 remains in this item for support of the Cathie Wright Technical Assistance Center, which provides training and technical assistance to counties to implement integrated health and human services programs.

During favorable economic conditions, the State has been able to fund a higher level of services to address the mental health needs of children. With current limited resources, however, priority must be placed on the provision of direct and essential services to these children, which will continue to be provided by the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) program and local county realignment funding. With current limited state resources, however, priority must be placed on the provision of direct and essential services to these children. By maintaining the Cathie Wright Technical Assistance Center, it is my hope that the enhanced coordination of services within counties can be maintained until the economic situation improves.

Item 5175-101-0001—For local assistance, Department of Child Support Services. I reduce this item from $\$252,159,000$ to $\$250,799,000$ by reducing:

- (1) 10-Child Support Services from $\$978,519,000$ to $\$974,519,000$;
 - (a) 10.01-Child Support Administration from $\$875,095,000$ to $\$871,095,000$;
- (3) Amount payable from the Federal Trust Fund (Item 5175-001-0890) from $-\$447,175,000$ to $-\$444,535,000$;

and by deleting Provision 9.

I am deleting the \$1,360,000 legislative augmentation for the Los Angeles County local child support agency. On the basis of equity and given the current condition of the General Fund, I cannot support this expenditure. With this reduction, \$871,095,000 remains for administrative support of local child support agencies.

I am also deleting a \$2,640,000 legislative augmentation from the Federal Trust Fund in Item 5175-101-0890 to conform to this action.

Item 5175-101-0890—For local assistance, Department of Child Support Services. I reduce this item from \$447,175,000 to \$444,535,000 by reducing:

I am reducing this item by \$2,640,000 to conform to the action I have taken in Item 5175-101-0001.

Item 5180-101-0001—For local assistance, Department of Social Services. I reduce this item from \$2,881,929,000 to \$2,881,900,000 by reducing:

- (1) 16.30-CalWORKs from \$5,231,280,000 to \$5,191,280,000;
- (2) 16.65-Other Assistance Payments from \$1,522,917,000 to \$1,522,888,000; and
- (6) Amount payable from the Federal Trust Fund (Item 5180-101-0890) from -\$3,677,127,000 to -\$3,637,127,000.

I am deleting the \$29,000 legislative augmentation for increased costs resulting from providing California Food Assistance Program benefits to convicted drug felons. This technical correction conforms to removal of the language from the associated Budget Trailer Bill.

I am also revising this item to conform to the action I have taken in Item 5180-101-0890.

Item 5180-101-0890—For local assistance, Department of Social Services. I reduce this item from \$3,677,127,000 to \$3,637,127,000.

I am reducing \$40,000,000 in federal Temporary Assistance for Needy Families Block Grant funds for CalWORKs employment services to nullify the effect of language included in the Budget Trailer Bill to provide unspent 2003–04 CalWORKs single allocation funds to counties in 2004–05. This language increases current spending and reduces the ability to maintain funding for the CalWORKs program within available federal and state resources.

While the budget ensures resources necessary to maintain existing benefits and services, this veto will improve the State's ability to continue these essential benefits and services in the future.

Item 5180-141-0001—For local assistance, Department of Social Services. I reduce this item from \$405,478,000 to \$405,454,000 by reducing:

- (1) 16.75-County Administration and Automation Projects from \$1,024,616,000 to \$1,024,557,000; and
- (3) Amount payable from the Federal Trust Fund (Item 5180-141-0890) from -\$580,825,000 to -\$580,790,000.

I am deleting the \$59,000 (\$24,000 General Fund and \$35,000 Federal Trust Fund) legislative augmentation for increased administration costs resulting from providing Food Stamp benefits to convicted drug felons. This technical correction conforms to removal of the language from the associated Budget Trailer Bill.

Item 5180-141-0890—For local assistance, Department of Social Services. I reduce this item from \$580,825,000 to \$580,790,000.

I am revising this item to conform to the action I have taken in Item 5180-141-0001.

Item 5180-151-0001—For local assistance, Department of Social Services. I reduce this item from \$768,509,000 to \$751,364,000 by reducing:

- (1) 25.30-Children and Adult Services and Licensing from \$2,049,695,000 to \$2,032,550,000;

and by deleting Provisions 11 and 12.

I am reducing the \$17,145,000 legislative augmentation for the Child Welfare Services Augmentation. During better economic times the State was able to pay the counties' share-of-cost to provide additional social workers for Child Welfare Services. However, due to limited state resources in the General Fund, the State is unable to continue to waive the 30 percent nonfederal county share-of-cost for the Child Welfare Services Augmentation in this Budget. Assuming that counties backfill this reduction

with their own resources, \$91,440,000 in total funds remains available to counties to support this important program. I am deleting Provision 12 to conform to this action.

The Legislature adopted language that would require the Department of Social Services, with input from the Continuing Care Advisory Committee, to establish a panel to develop governance standards for applicants and operators of Continuing Care Retirement Communities, on or by July 1, 2005. I am deleting Provision 11, as it is inconsistent with efforts to streamline government and consolidate or eliminate boards and commissions to achieve operational efficiencies.

Item 5240-001-0001—For support of the Department of Corrections. I reduce this item from \$5,311,082,000 to \$5,309,719,000 by reducing:

(2) 22-Health Care Services Program from \$942,126,000 to \$940,763,000.

I am deleting the \$1,363,000 legislative augmentation associated with the denial of the department's plan to reclassify 23.5 vacant staff psychiatrist positions to nurse practitioners. The department will reclassify these positions thereby eliminating the need for the augmentation. The reclassification represents a reasonable effort to address the department's increasing medical and mental health costs through improved efficiencies that do not compromise or lessen the provision of inmate care. The reclassification is consistent with policies adopted by the Department of Mental Health. The hiring of Nurse Practitioners will also assist in maintaining continuity of mental health care due to the reduced need of temporary contract staff.

Item 6110-001-0001—For support of Department of Education. I reduce this item from \$36,443,000 to \$36,193,000 by reducing:

(2) 20-Instructional Support from \$53,393,000 to \$53,143,000.

I am reducing a portion of this state operations budget by \$250,000 to provide for a prudent General Fund reserve in light of the State's current fiscal condition. Over the last several years, other constitutional offices have had to absorb significant General Fund reductions without the benefit of the substantial federal funds provided to the State Department of Education. I would note that the Department has received \$2.1 million in federal fund augmentations in this budget, an increase that far exceeds this reduction.

Item 6110-130-0001—For local assistance, Department of Education. I reduce this item from \$10,300,000 to \$9,035,000.

I am sustaining \$9,035,000 for the Advancement Via Individual Determination program (AVID) to provide training to teachers and school leaders and assistance to schools in implementing this program that helps students prepare for and be successful in college that might otherwise not attend. During better economic times the State was able to fully support a variety of worthy programs. However, due to limited resources in the General Fund, the State is unable to continue to sustain the same level of support.

In making this reduction I encourage districts that currently participate in the AVID program to utilize some of the existing staff development dollars available to them. This budget already includes \$957 million for staff development and teacher training programs.

I am revising Provision 1 to conform to this action.

"1. Of the funds appropriated, \$1,300,000 is available for administration of the Advancement Via Individual Determination (AVID) centers and \$6,000,000 is available for competitive outreach grants to local education agencies for the AVID program. Notwithstanding any other provision of law, the remaining ~~\$3,000,000~~ \$1,735,000 shall be used solely for the provision of advanced placement teacher training or tutoring services."

Item 6110-161-0890—For local assistance, Department of Education. I reduce this item from \$1,091,674,000 to \$1,090,974,000 by reducing:

(7) 10.60.050.032-IDEA, Family Empowerment Centers from \$3,432,000 to \$2,732,000,

and by deleting Provision 11.

I am deleting the legislative augmentation of \$700,000 to establish four additional family empowerment centers. An increase in the number of centers is premature, as funding has been provided to conduct a study to evaluate the effectiveness of the twelve existing family empowerment centers. If the study shows these centers are

effective in helping students with special needs, their families and schools, I will consider an augmentation to provide better access.

I am deleting Provision 11 to conform to this action.

Item 6110-164-0001—For local assistance, Department of Education. I delete this item and Provision 1.

I am deleting the \$1,700,000 legislative augmentation to restore funding for the School-to-Career program. While I am very supportive of vocational education, I am interested in a more comprehensive proposal to reform and improve the State's efforts in this area rather than sustaining small programs that help a few schools. The State provides an estimated \$2 billion for vocational education in programs such as Regional Occupational Centers and Programs, secondary school vocational programs, apprentice programs and Community College programs. The multiplicity of programs and organizations involved makes it difficult to ensure accountability and to ensure all of California's students receive the kind of training and education they need to perform well in good jobs. The grants provided by this program were intended to provide short-term resources to assist local partnerships to implement activities and working relationships that would be sustained after state funds expire. Once a program is established, it is expected that local businesses provide ongoing support to the extent that they benefit from these partnerships.

I am deleting Provision 1 to conform to this action.

Item 6110-485—Reappropriation, Department of Education, Proposition 98. I revise this item from \$320,249,000 to \$319,749,000, by deleting:

- (8) \$500,000, on a one-time basis, to the State Department of Education for the establishment of a web-based model that would differentiate and compare the capabilities of electronic assessment resources. These funds would be available contingent upon legislation for this purpose.

I am deleting the legislative augmentation of \$500,000 for the establishment of a web-based model that would allow for comparisons of software packages used to evaluate pupil assessment results. Given that the State currently spends \$112.6 million on student testing and assessment, the establishment of this model may have merit. However, I would like to consider the expenditure of additional state funds for this purpose, in conjunction with the pending legislative measure. Until I can evaluate the final legislative proposal, it is premature to appropriate funds in the Budget Act for this purpose.

Item 6360-001-0407—For support of the Commission on Teacher Credentialing. I reduce this item from \$14,411,000 to \$14,211,000 by reducing:

- (1) 10-Standards for Preparation and Licensing of Teachers from \$14,650,000 to \$14,450,000.

I am deleting the \$200,000 legislative augmentation to fund an additional 2.0 positions to address the credential processing backlog. This augmentation is unnecessary because the Commission can reduce the credentialing backlog with the staff provided in the budget. Providing credentialed teachers for all pupils is a goal of this Administration. The Commission should adopt greater efficiencies in conjunction with the review being conducted by the State Auditor, which is expected to be completed in the Fall of 2004, in order to eliminate the credential processing backlog.

Item 6870-101-0001—For local assistance, Board of Governors of the California Community Colleges (Proposition 98). I reduce this item from \$2,810,212,000 to \$2,778,803,000 by reducing:

- (4) 10.10.040-Partnership for Excellence from \$225,000,000 to \$193,591,000; and by revising Provision 4.

I am reducing this item by reducing the funding for the Partnership for Excellence program by \$31,409,000 to maintain the May Revision Proposition 98 spending level for community colleges. Instead, funds were provided to support additional student enrollments and to maintain lower fees for Bachelor degree holders. With this reduction, \$193,591,000 will still be available for this program through the general apportionments pursuant to Provision 4(a) of this item. The Legislature reduced the rigor of the accountability structure for this program proposed in the Governor's Budget. Because this program lacks accountability at the district level, it is appropriate that this

funding be reduced. However, given my strong commitment to the Community Colleges and the extraordinary work they do in educating over a million full-time equivalent students seeking transfer, technical and basic skills every year, I am willing to restore this funding in the 2005–06 budget provided that district level goals and performance evaluations are incorporated into the accountability structure as had been proposed.

I revise provision 4(a) as follows to conform to this action: “4. (a) The amount appropriated in Schedule (4) shall be made available to districts in the same manner as the general apportionment funding in Schedule (1), and shall be made available ~~in the same amount provided to each district for the Partnership for Excellence program in the 2003–04 fiscal year, including the funding deferred for this program pursuant to Section 84321 of the Education Code, and~~ notwithstanding the basic aid status of any district. As a condition of receiving these funds, the districts shall first agree to assure that courses related to student needs for transfer, basic skills, and vocational and work-force training are accorded the highest priority and are provided to the maximum extent possible within the budgeted funds.”

Item 8260-101-0001—For local assistance, California Arts Council. I delete this item.

I am deleting the \$1,000,000 legislative augmentation for local arts grants. Given the fiscal condition of the State, this reduction is necessary to help build a prudent reserve and bring ongoing expenditures in line with existing resources over the longer term.

Item 8570-101-0001—For local assistance, Department of Food and Agriculture. I reduce this item from \$6,078,000 to \$5,528,000 by reducing:

- (1) 11-Agricultural Plant and Animal, Pest and Disease Prevention from \$6,078,000 to \$5,528,000.

I am deleting the \$550,000 legislative augmentation that would provide specified Los Angeles County employees performing pest detection and eradication activities with permanent employee status. This augmentation is associated with pending legislation and I am opposed to the appropriation of funds for legislation that has not yet been approved by the Legislature and the Administration.

Item 8665-001-9326—For support of California Consumer Power and Conservation Financing Authority. I reduce this item from \$1,224,000 to \$424,000 by reducing:

- (1) 15-Energy Acquisition from \$738,000 to \$258,000;
- (2) 20-Planning and Policy Development from \$486,000 to \$166,000;
- (3) 30.01-Administration from \$343,000 to \$119,000; and
- (4) 30.02-Distributed Administration from –\$343,000 to –\$119,000.

I am deleting the \$800,000 legislative augmentation to increase funding for California Power Authority (Authority) activities. I proposed in my January 10 Budget to eliminate the Authority as a first step towards reorganizing California’s energy agencies. While further energy reorganizations may be proposed, the continued existence of the Authority will not contribute to improving California’s energy situation and its elimination need not wait for more comprehensive energy reorganization proposals. Other State energy agencies already perform activities similar to those of the Authority. Elimination of the Authority is an appropriate first step to streamline energy programs and I renew my call on the Legislature to send me legislation statutorily eliminating this unnecessary organization.

Item 8830-001-0001—For support of California Law Revision Commission. I reduce this item from \$662,000 to \$512,000 by reducing:

- (1) 10-Law Revision Commission from \$677,000 to \$527,000.

I am deleting the \$150,000 legislative augmentation. Given the fiscal condition of the State, this reduction is necessary to help build a prudent reserve and bring ongoing expenditures in line with existing resources over the longer term. With this reduction, \$527,000 remains to support the Commission’s programs.

With the above deletions, revisions, and reductions, I hereby approve Senate Bill 1113.

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

SECTION 1.00. This act shall be known and may be cited as the “Budget Act of 2004.”

SEC. 1.50. (a) In accordance with Section 13338 of the Government Code, as added by Chapter 1284, Statutes of 1978, and as amended by Chapter 1286, Statutes of 1984, it is the intent of the Legislature that this act utilize a coding scheme compatible with the Governor’s Budget and the records of the Controller, and provide for the appropriation of federal funds received by the State and deposited in the State Treasury.

(b) Essentially, the format and style are as follows:

(1) Appropriation item numbers have a code which is common to all the state’s fiscal systems. The meaning of this common coded item number is as follows:

2720—Organization Code (this code represents the California Highway Patrol)

001—Reference Code (first appropriation for a particular fund for support of each department)

0044—Fund Code (Motor Vehicle Account, State Transportation Fund)

(2) Appropriation items are organized in organization code order as reflected in the Governor’s Budget.

(3) All the appropriation items, reappropriation items, and reversion items, if any, for each department or entity are adjacent to one another.

(4) Federal funds received by the state and deposited in the State Treasury are appropriated in separate items.

(c) The Department of Finance may authorize revisions to the codes used in this act in order to provide compatibility between the codes used in this act and those used in the Governor’s Budget and in the records of the State Controller.

(d) Notwithstanding any other provision of this act, the Department of Finance may revise the schedule of any appropriation made in this act where the revision is of a technical nature and is consistent with legislative intent. These revisions may include, but shall not be limited to, the substitution of category for program or program for category limitations, the proper categorization of allocated administration costs and cost recoveries, the distribution of any unallocated amounts within an

appropriation and the adjustment of schedules to facilitate departmental accounting operations, including the elimination of categories providing for amounts payable from other items or other appropriations and the distribution of unscheduled amounts to programs or categories. These revisions shall include a certification that the revisions comply with the intent and limitation of expenditures as appropriated by the Legislature.

(e) Notwithstanding any other provision of this act, when the Department of Finance, pursuant to subdivision (d), approves the schedule or revision of any appropriation relating to the elimination of amounts payable, the language authorizing the transfer shall also be eliminated.

SEC. 2.00. (a) The following sums of money and those appropriated by any other sections of this act, or so much thereof as may be necessary unless otherwise provided herein, are hereby appropriated for the use and support of the State of California for the 2004–05 fiscal year beginning July 1, 2004, and ending June 30, 2005. All of these appropriations, unless otherwise provided herein, shall be paid out of the General Fund in the State Treasury.

(b) Appropriations and reappropriations for capital outlay, unless otherwise provided herein, shall be available for expenditure during the 2004–05, 2005–06 and 2006–07 fiscal years, except that appropriations and reappropriations for studies, preliminary plans, working drawings, or minor capital outlay, except as provided herein, shall be available for expenditure only during the 2004–05 fiscal year. In addition, the balance of every appropriation or reappropriation made in this act that contains funding for construction that has not been allocated, through fund transfer or approval to proceed to bid, by the Department of Finance on or before June 30, 2005, except as provided herein, shall revert as of that date to the fund from which the appropriation was made.

(c) Whenever by constitutional or statutory provision the revenues or receipts of any institution, department, board, bureau, commission, officer, employee, or other agency, or any moneys in any special fund created by law therefor, are to be used for salaries, support or any proper purpose, expenditures shall be made therefrom for any such purpose only to the extent of the amount therein appropriated, unless otherwise stated herein.

(d) Appropriations for purposes not otherwise provided for herein that have been heretofore made by any existing constitutional or statutory provision shall continue to be governed thereby.

LEGISLATIVE/JUDICIAL/EXECUTIVE

Legislative

Item	Amount
0110-001-0001—For support of Senate.....	91,308,000

Item Amount

Schedule:

- (1) 101001-Salaries of Senators..... 5,031,000
- (2) 317295-Mileage 10,000
- (3) 317292-Expenses 1,320,000
- (4) 500004-Operating Expenses..... 84,242,000
- (5) 317296-Automotive Expenses..... 705,000

Provisions:

- 1. The funds appropriated in Schedule (4) are for operating expenses of the Senate, including personal services for officers, clerks, and all other employees, and legislative committees thereof composed in whole or in part of Members of the Senate, and for support of joint expenses of the Legislature, to be transferred by the Controller to the Senate Operating Fund.
- 2. The funds appropriated in Schedule (5) are for operating expenses of the Senate relating to the purchase, maintenance, repair, insurance, and other costs of operating automobiles for the use of Members of the Senate, to be transferred by the Controller to the Senate Operating Fund.
- 3. The funds appropriated in Schedules (1), (2), (3), and (5) may be adjusted for transfers to or from the Senate Operating Fund.

0120-011-0001—For support of Assembly 123,904,000

Schedule:

- (1) 101001-Salaries of Assembly Mem-
bers 9,947,000
- (2) 317295-Mileage 8,000
- (3) 317292-Expenses 2,654,000
- (4) 500004-Operating Expenses..... 110,732,000
- (5) 317296-Automotive Expenses..... 563,000

Provisions:

- 1. The funds appropriated in Schedule (4) are for operating expenses of the Assembly, including personal services for officers, clerks, and all other employees, and legislative committees thereof composed in whole or in part of Members of the Assembly, and for support of joint expenses of the Legislature, to be transferred by the Controller to the Assembly Operating Fund.
- 2. The funds appropriated in Schedule (5) are for operating expenses of the Assembly relating to the lease, maintenance, repair, insurance, and other costs of operating automobiles for the use of

Item	Amount
Members of the Assembly, to be transferred by the Controller to the Assembly Operating Fund.	
3. The funds appropriated by Schedules (1), (2), (3), and (5) may be adjusted for transfers to or from the Assembly Operating Fund.	
0130-021-0001—For support of Office of the Legislative Analyst.....	0
Schedule:	
(1) Expenses of the Office of the Legislative Analyst	6,108,000
(2) Transferred from Item 0110-001-0001	-3,054,000
(3) Transferred from Item 0120-011-0001	-3,054,000
Provisions:	
1. The funds appropriated in Schedule (1) are for the expenses of the Office of the Legislative Analyst and of the Joint Legislative Budget Committee for any charges, expenses, or claims either may incur, available without regard to fiscal years, to be paid on certification of the Chairperson of the Joint Legislative Budget Committee.	
2. Funds identified in Schedules (2) and (3) may be transferred from the Senate Operating Fund, by the Senate Committee on Rules, and the Assembly Operating Fund, by the Assembly Committee on Rules.	
0160-001-0001—For support of Legislative Counsel Bureau.....	80,010,000
Schedule:	
(1) Support.....	80,141,000
(2) Reimbursements.....	-131,000
Judicial	
0250-001-0001—For support of Judiciary	292,400,000
Schedule:	
(1) 10-Supreme Court	39,248,000
(2) 20-Courts of Appeal.....	173,913,000
(3) 30-Judicial Council	86,740,000
(4) 50-Habeas Corpus Resource Center	10,842,000
(5) 97.20.001-Unallocated Reduction...	-8,500,000
(6) Reimbursements.....	-3,267,000
(7) Amount payable from the Motor Vehicle Account, State Transportation Fund (Item 0250-001-0044)...	-147,000

Item	Amount
(8) Amount payable from the Court Interpreters' Fund (Item 0250-001-0327).....	-319,000
(9) Amount payable from the Federal Trust Fund (Item 0250-001-0890).	-2,489,000
(10) Amount payable from the Appellate Court Trust Fund (Item 0250-001-3060).....	-3,621,000

Provisions:

1. Notwithstanding Section 26.00 of this act, the funds appropriated or scheduled in this item may be allocated or reallocated among categories by order of the Judicial Council.
2. Of the funds appropriated in this item, \$200,000 is available for reimbursement to the Attorney General, or for hiring outside counsel, for pre-litigation and litigation fees and costs, including any judgment, stipulated judgment, offer of judgment or settlement. This amount is for use in connection with (a) matters arising from the actions of appellate courts, appellate court bench officers, or appellate court employees; (b) matters arising from the actions of the Judicial Council, council members or council employees or agents; (c) matters arising from the actions of the Administrative Office of the Courts or its employees; or (d) employment litigation arising from the actions of trial courts, trial court bench officers, or trial court employees. Either the state or the Judicial Council must be named as a defendant or alleged to be the responsible party. Any funds not used for this purpose shall revert to the General Fund.
3. Notwithstanding any other provision of law, up to \$5,000,000 appropriated in this item may be transferred to Item 0250-101-0001 by the Controller at the request of the Administrative Office of the Courts, to cover any short-term cashflow issues that occur. Any funds transferred shall be repaid to this item from Item 0250-101-0001. The Judicial Council shall notify the Department of Finance and the Joint Legislative Budget Committee when any transfer is made pursuant to this provision, and upon repayment of the transfer.
4. The funds appropriated by Schedule (4) shall be available for costs associated directly or indirectly

Item	Amount
with the California Habeas Corpus Resource Center (CHCRC). The CHCRC shall report to the Legislature and the Department of Finance on September 1, 2004, and April 1, 2005, on expenditures, specifically detailing personal services expenditures, and operating expenses and equipment expenditures.	
5. Notwithstanding any other provision of law, upon approval and order of the Department of Finance, the amount appropriated in this item shall be reduced by the amount transferred in Item 0250-011-0001 to provide adequate resources to the Judicial Branch Workers' Compensation Fund to pay workers' compensation claims for judicial branch employees and administrative costs pursuant to Section 68114.10 of the Government Code.	
0250-001-0044—For support of Judiciary, for payment to Item 0250-001-0001, payable from the Motor Vehicle Account, State Transportation Fund.....	147,000
0250-001-0327—For support of Judiciary, for payment to Item 0250-001-0001, payable from the Court Interpreters' Fund	319,000
0250-001-0890—For support of Judiciary, for payment to Item 0250-001-0001, payable from the Federal Trust Fund.....	2,489,000
0250-001-3037—For support of Judiciary, payable from the State Court Facilities Construction Fund.....	33,882,000
Schedule:	
(1) 30-Judicial Council	33,882,000
Provisions:	
1. Of the amount appropriated in this item, up to \$23,291,000 is for costs and new positions associated with the transfer of trial court facilities beginning in the 2004–05 fiscal year and shall not be expended until the Director of Finance approves a workload plan submitted by the Judicial Council. The Judicial Council shall submit a copy of the approved workload plan to the Legislature.	
0250-001-3060—For support of Judiciary, for payment to Item 0250-001-0001, payable from the Appellate Court Trust Fund	3,621,000
0250-001-3066—For support of Judiciary, payable from the Court Facilities Trust Fund.....	1,000

Item	Amount
Schedule:	
(1) 30-Judicial Council	1,000
Provisions:	
1. Notwithstanding any other provision of law, the Director of Finance may authorize expenditures in excess of this item for the operation, repair, and maintenance of court facilities pursuant to Section 70352 of the Government Code.	
0250-003-0001—For support of Judiciary for rental payments on lease-revenue bonds	957,000
Schedule:	
(1) Base Rental and Fees	1,010,000
(2) Insurance	9,000
(3) Reimbursements	-62,000
Provisions:	
1. The funds appropriated in this item shall be made available for costs associated with rental payments on lease-revenue bonds for the Court of Appeal, Fourth District, Division 2, in Riverside, California.	
2. The Controller shall transfer funds appropriated in this item according to a schedule to be provided the State Public Works Board. The schedule shall be provided on a monthly basis or as otherwise might be needed to ensure debt requirements are met.	
0250-011-0001—For transfer, upon order of the Director of Finance, to the Judicial Branch Workers’ Compensation Fund	1,000
Provisions:	
1. Notwithstanding any other provision of law, upon approval and order of the Department of Finance, the Judicial Council shall adjust the amount of this transfer to provide adequate resources to the Judicial Branch Workers’ Compensation Fund to pay workers compensation claims for judicial branch employees and administrative costs pursuant to Government Code Section 68114.10.	
0250-101-0001—For local assistance, Judiciary	13,556,000
Schedule:	
(1) 30.10-Child Support Commissioner Program (AB 1058)	43,122,000
(2) 30.20-California Drug Court Projects	2,858,000
(3) 30.30-Federal Child Access and Visitation Grant Program.....	800,000

Item	Amount
(4) 30.50-Federal Court Improvement Grant Program	700,000
(5) 30.60-Court Appointed Special Advocate (CASA) Program	1,924,000
(6) 30.65-Model Self-Help Program	832,000
(8) 30.80-Federal Grants—Other	775,000
(9) 30.90-Equal Access Fund	9,500,000
(10) 30.95-Family Law Information Centers	300,000
(11) Reimbursements	-44,980,000
(12) Amount payable from Federal Trust Fund (Item 0250-101-0890).	-2,275,000

Provisions:

1. Notwithstanding any other provision of law, up to \$5,000,000 appropriated in Item 0250-001-0001 may be transferred to Item 0250-101-0001 by the Controller at the request of the Administrative Office of the Courts, to cover any short-term cash-flow issues that occur. Any funds transferred shall be repaid from this item to Item 0250-001-0001. The Judicial Council shall notify the Department of Finance and the Joint Legislative Budget Committee when any transfer is made pursuant to this provision, and upon repayment of the transfer.
2. In order to improve equal access and the fair administration of justice, the funds appropriated in Schedule (9) are to be distributed by the Judicial Council through the Legal Services Trust Fund Commission to qualified legal services projects and support centers as defined in Sections 6213 through 6215 of the Business and Professions Code, to be used for legal services in civil matters for indigent persons. The Judicial Council shall approve awards made by the commission if the council determines that the awards comply with statutory and other relevant guidelines. Ten percent of the funds in Schedule (9) shall be for joint projects of courts and legal services programs to make legal assistance available to proper litigants and 90 percent of the funds in Schedule (9) shall be distributed consistent with Sections 6216 through 6223 of the Business and Professions Code. The Judicial Council may establish additional reporting or quality control requirements consistent with Sections 6213 through 6223 of the Business and Professions Code.

Item	Amount
3. Notwithstanding any other provision of law, an amount not to exceed the level of the unallocated reduction in Schedule (5) of Item 0250-001-0001, may be transferred from this item in augmentation of item 0250-001-0001 by the Controller at the request of the Administrative Office of the Courts.	
0250-101-0890—For local assistance of Judiciary, for payment to Item 0250-101-0001, payable from the Federal Trust Fund	2,275,000
0250-301-3037—For capital outlay, Judicial Council, payable from the State Court Facilities Construction Fund	619,000
Schedule:	
(1) 90.31.001-Placer/Nevada Shared Use Tahoe Court: Truckee—Acquisition	544,000
(2) 90.32.001-Portola/Loyalton New Branch Court: Counties of Sierra and Plumas—Acquisition	75,000
0250-490—Reappropriation, Judicial Council. The balance of the appropriation provided in the following citation is reappropriated for the purposes and subject to the limitations, unless otherwise specified, provided for in the appropriation and shall be available for encumbrance until June 30, 2006:	
0660—Public Buildings Construction Fund	
(1) Item 0250-301-0660, Budget Act of 2002 (Ch. 379, Stats. 2002) as reappropriated by Item 0250-490, Budget Act of 2003 (Ch. 157, Stats. 2003)	
(1) 90.20.401-Court of Appeal, Fourth Appellate District Santa Ana: New Courthouse—Working drawings and construction	
0280-001-0001—For support of the Commission on Judicial Performance, Program 10	3,910,000
Provisions:	
1. Notwithstanding any other provision of law, upon approval and order of the Department of Finance, the amount appropriated in this item shall be reduced by the amount transferred in Item 0280-011-0001 to provide adequate resources to the Judicial Branch Workers' Compensation Fund to pay workers compensation claims for judicial branch employees and administrative costs pursuant to Government Code Section 68114.10.	

Item	Amount
0280-011-0001—For transfer, upon order of the Director of Finance, to the Judicial Branch Workers’ Compensation Fund	1,000
Provisions:	
1. Notwithstanding any other provision of law, upon approval and order of the Department of Finance, the Commission on Judicial Performance shall adjust the amount of this transfer to provide adequate resources to the Judicial Branch Workers’ Compensation Fund to pay workers compensation claims for judicial branch employees and administrative costs pursuant to Government Code Section 68114.10.	
0390-001-0001—For transfer by the Controller to the Judges’ Retirement Fund, for Supreme Court and Appellate Court Justices	1,150,000
Provisions:	
1. Upon order of the Department of Finance, the Controller shall transfer such funds as are necessary between Item 0390-001-0001 and Item 0390-101-0001.	
0390-101-0001—For transfer by the Controller to the Judges’ Retirement Fund for Superior Court and Municipal Court Judges	115,040,000
Provisions:	
1. Upon order of the Department of Finance, the Controller shall transfer such funds as are necessary between Item 0390-001-0001 and Item 0390-101-0001.	
0450-101-0001—For local assistance, State Trial Court Funding.....	5,810,000
Provisions:	
1. Of the amount appropriated in this item, up to \$3,000,000, shall only be used for the payment of service of process fees billed to the trial courts as a result of Chapter 1009 of the Statutes of 2002. The Judicial Council shall distribute these funds to the individual trial courts on a reimbursement basis.	
2. Of the amount appropriated in this item, up to \$2,556,000, shall only be used for the payment of the court costs payable under Sections 4750 to 4755, and 6005 of the Penal Code. The Judicial Council shall distribute these funds to the eligible individual trial courts on a reimbursement basis.	

Item

Amount

- 3. The Judicial Council shall provide the Department of Finance with a report, by September 1, 2005, detailing the number of services of process billed to the courts under Chapter 1009 of the Statutes of 2002, the cost of these services, and information on any agreements reached with local law enforcement to provide this service free of charge or at a reduced rate.
- 4. The Judicial Council shall provide the Department of Finance with a report, by September 1, 2005, detailing, by court, the level of reimbursements provided for court costs associated with prisoner hearings under Sections 4750 to 4755, and 6005 of the Penal Code.
- 5. Any funds in this item that are not used shall revert to the General Fund.
- 6. Of the amount appropriated in this item, up to \$254,000 shall be used for the payment of courts costs of extraordinary homicide trials. The Judicial Council shall adopt a rule of court to establish a process for courts to seek reimbursement for the extraordinary costs of homicide trials. In developing the process for reimbursement, the Judicial Council shall consider the following: (a) the uniform administration of justice throughout the state is a matter of statewide interest; (b) the prosecution and conduct of trials of persons accused of homicide should not be hampered or delayed by any lack of funds available to the courts for such purposes; (c) a court should not be required to bear the entire costs of a trial involving a homicide if such costs will seriously impair the finances of the court; and (d) the methodology for reimbursement established in Section 15202 of the Government Code.

0450-101-0932—For local assistance, State Trial Court Funding, payable from the Trial Court Trust Fund..... 2,182,440,000

Schedule:

- (1) 10-Support for operation of the Trial Courts..... 1,935,784,000
- (2) 25-Compensation of Superior Court Judges232,767,000
- (3) 35-Assigned Judges..... 21,154,000
- (4) 45-Court Interpreters 67,735,000
- (5) 97.20.001-Unallocated Reduction...-75,000,000

Item		Amount
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Provisions:

1. Notwithstanding Section 26.00 of this act, the funds appropriated or scheduled in this item may be allocated or reallocated among categories by the Judicial Council.
2. The amount appropriated in Schedule (3) shall be made available for all judicial assignments. Schedule (3) expenditures for necessary chamber staff may not exceed the staffing level that is necessary to support the equivalent of three judicial officers sitting on assignments at the appellate court level.
3. The funds appropriated in Schedule (2) shall be made available for the payment of workers' compensation claims for trial court judges.
4. The funds appropriated in Schedule (4) shall be for payments for services of contractual court interpreters, and certified and registered court interpreters employed by the courts, and the following court interpreter coordinators: one each in counties of the 1st through the 15th classes, 0.5 each in counties of the 16th through the 31st classes, and 0.25 each in counties of the 32nd through 58th classes. For the purposes of this provision, "court interpreter coordinators" may be full- or part-time court employees, or those contracted by the court to perform these services.

The Judicial Council shall set statewide or regional rates and policies for payment of court interpreters, not to exceed the rate paid to certified interpreters in the federal court system. The Judicial Council shall adopt appropriate rules and procedures for the administration of these funds. The Judicial Council shall report to the Legislature and Director of the Department of Finance annually regarding expenditures from this schedule.

5. Upon order of the Director of Finance, the amount available for expenditure in this item may be augmented by the amount of any additional resources available in the Trial Court Trust Fund, which is in addition to the amount appropriated in this item.
6. Notwithstanding any other provision of law, the distribution of fines, fees, forfeitures, and penalties reported by the County of San Bernardino for the 1993-94, 1994-95, and 1995-96 fiscal years shall be deemed to be correct and no further reductions or increases shall be made to the distri-

Item		Amount
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tribution for those fiscal years, except for those amounts owed to other local agencies.

7. The funds appropriated in Schedule (1) include \$1,175,000 for court operations related to Chapter 561 of the Statutes of 1999. It is the intent of the Legislature that these funds only be used for the processing of elder abuse protective orders. Any funds not used for this purpose shall revert to the General Fund.
8. In addition to funding approved and appropriated through the program budget process, on an annual basis, it is the intent of the Legislature that the state shall provide, upon the order of the Director of Finance, to the Judicial Council an amount of discretionary funding that is deemed to be fair, reasonable, and fiscally responsible and meets specific criteria established and agreed upon by the Director of the Department of Personnel Administration, Director of Finance, and the Administration Director of the Courts. The level of funding shall be based on factors such as workload, population growth, agreed-upon policy goals, changes in local geographical circumstances and other agreed-upon criteria, which shall include the average percentage salary and benefit increases provided to state employees.

The Judicial Council shall allocate these funds to meet the various needs of the trial courts. This includes the need to negotiate local memoranda of understanding with recognized bargaining agents and to meet other salary and benefit needs of the trial courts.

9. Notwithstanding any other provision of law, upon approval and order of the Department of Finance, the amount appropriated in this item shall be reduced by the amount transferred in Item 0450-115-0932 to provide adequate resources to the Judicial Branch Workers' Compensation Fund to pay workers compensation claims for judicial branch employees and administrative costs pursuant to Government Code Section 68114.10.

0450-111-0001—For transfer by the Controller to the Trial Court Trust Fund	1,167,758,000
Provisions:	

1. To the extent that an amount of discretionary funding is provided to the Judicial Council pursuant to Item 0450-101-0932, Provision 8, upon the

Item	Amount
order of the Director of Finance, the appropriation in this item may be increased by the corresponding General Fund amount.	
0450-112-0001—For transfer by the Controller to the Judicial Administration Efficiency and Modernization Fund	34,122,000
0450-112-0159—For transfer by the Controller, upon order of the Director of Finance, from the Trial Court Improvement Fund to the Trial Court Trust Fund ...	(0)
Provisions:	
1. Notwithstanding any other provision of law, this item may be augmented subject to the limitations in Item 0450-401 of this act and is for transfer to the Trial Court Trust Fund in augmentation of Item 0450-101-0932.	
0450-112-0556—For local assistance, State Trial Court Funding, payable from the Judicial Administration Efficiency and Modernization Fund.....	34,122,000
0450-112-3037—For transfer by the Controller, upon order of the Director of Finance, from the State Court Facilities Construction Fund to the General Fund ...	(30,000,000)
Provisions:	
1. Transfers authorized by this item may only take place after the revenue collected by the State Court Facilities Construction Fund exceeds the amount appropriated pursuant to Item 0250-001-3037.	
2. The transfer made by this item is a loan to the General Fund to be repaid in a timeframe to be determined by the Department of Finance. This loan shall be repaid with interest calculated at the rate earned by the Pooled Money Investment Account at the time of the transfer.	
0450-115-0932—For transfer, upon order of the Director of Finance, to the Judicial Branch Workers Compensation Fund	1,000
Provisions:	
1. Notwithstanding any other provision of law, upon approval and order of the Department of Finance, the Judicial Council shall adjust the amount of this transfer to provide adequate resources to the Judicial Branch Workers' Compensation Fund to pay workers compensation claims for judicial branch employees and administrative costs pursuant to Government Code Section 68114.10.	

Item	Amount
0450-401—Notwithstanding any other provision of law, the Judicial Council is hereby authorized to transfer funding from Item 0450-112-0001 to Item 0450-111-0001 for transfer to and in augmentation of Item 0450-101-0932. In addition, Judicial Council may adjust Item 0450-112-0556 to conform to the amount being transferred pursuant to Item 0450-112-0001. The Judicial Council is authorized to make these transfers and the transfer authorized pursuant to Item 0450-112-0159 for the purpose of distributing the unallocated reduction in Schedule (5) in Item 0450-101-0932. The total amounts transferred by these items shall not exceed the level of funding in Item 0450-101-0932, Schedule (5) Unallocated Reduction.	

Executive

0500-001-0001—For support of Governor and of Governor’s office.....	6,119,000
Schedule:	
(1) Support.....	6,044,000
(2) Governor’s Residence (Support)	35,000
(3) Special Contingent Expenses	40,000
Provisions:	
1. The funds appropriated in Schedules (2) and (3) of this item are exempt from the provisions of Sections 925.6, 12410, and 13320 of the Government Code.	
0510-001-0001—For support of Secretary of State and Consumer Services	746,000
Schedule:	
(1) Support.....	1,316,000
(2) Reimbursements.....	-570,000
0520-001-0001—For support of Secretary for Business, Transportation and Housing, for payment to Item 0520-001-0044 payable from the General Fund	1,935,000
0520-001-0044—For support of Secretary for Business, Transportation and Housing, payable from the Motor Vehicle Account, State Transportation Fund.....	1,324,000
Schedule:	
(1) 10-Administration of Business, Transportation and Housing Agency.....	3,207,000
(2) 25-Infrastructure Finance and Economic Development Program	6,447,000
(3) Reimbursements.....	-2,878,000

Item	Amount
(4) Amount payable from the General Fund (Item 0520-001-0001).....	-1,935,000
(5) Amount payable from the California Infrastructure and Economic Development Bank Fund (Item 0520-001-0649)	-3,062,000
(6) Amount payable from the Small Business Expansion Fund (Item 0520-001-0918)	-455,000

Provisions:

1. The Business, Transportation and Housing Agency shall report to the budget committees of each house of the Legislature and the Legislative Analyst’s Office by April 1, 2005, with a cost-recovery fee plan for film permits issued to for profit production companies. The plan shall include, but is not limited to, fee levels for individual permits and projections for total fee revenue.
2. Of the amount appropriated in this item, \$600,000 is for the costs to develop, implement, and operate a new film permitting system, and may not be encumbered or expended until the Director of Finance approves the Feasibility Study Report for the system. The funds shall be made available consistent with the amount approved by the Director of Finance, based upon the approved Feasibility Study Report.

0520-001-0649—For support of Secretary for Business, Transportation and Housing, for payment to Item 0520-001-0044 payable from the California Infrastructure and Economic Development Bank Fund...	3,062,000
0520-001-0918—For support of Secretary for Business, Transportation and Housing, for payment to Item 0520-001-0044 payable from the Small Business Expansion Fund.....	455,000
0520-002-0001—For support of Secretary of Business, Transportation and Housing	575,000

Provisions:

1. The amount appropriated in this item is available for payment of costs resulting from the closure of the former Technology, Trade, and Commerce Agency. Notwithstanding any other provision of law, if the Department of Finance determines that the expenditures for these costs will exceed the expenditures authorized by this item, the Department of Finance shall report that fact to the Chair-

Item	Amount
<p>person of the Joint Legislative Budget Committee and the chairpersons of the committee in each house of the Legislature that considers appropriations. Thirty days after providing the written notification, the Director of Finance may increase this appropriation pursuant to the provisions of Chapter 2 of the Statutes of 2003, First Extraordinary Session.</p>	
0520-011-0001—For transfer, upon order of the Director of Finance, to the Small Business Expansion Fund. Provisions:	3,988,000
<ol style="list-style-type: none"> 1. Beginning with the 2004–05 fiscal year, the total income received by a financial development corporation for each loan guarantee completed may not exceed \$6,000 per guarantee. Total income includes funds received from the state and fees charged to loan guarantee recipients. The Secretary of Business, Transportation and Housing may exempt up to 25 percent of the loan guarantees contracted for by the agency from this requirement. It is the intent of the Legislature that state funding of the Small Business Loan Guarantee Program be 100 percent performance-based by the 2005–06 fiscal year. 2. The Department of Finance is hereby authorized to transfer any savings in this item to the General Fund at the end of the 2004–05 fiscal year. It is anticipated that the amount to be transferred to the General Fund will be \$248,000. 	
0520-101-0001—For local assistance, Secretary for Business, Transportation and Housing	0
Schedule:	
<ol style="list-style-type: none"> (1) 25-Infrastructure Finance and Economic Development Program 2,000,000 (2) Reimbursements –2,000,000 	
0520-115-3005—For transfer, upon order of the Director of Finance, from the Film California First Fund to the General Fund.....	(1,089,000)
0530-001-0001—For support of Secretary for California Health and Human Services	1,925,000
Schedule:	
<ol style="list-style-type: none"> (1) 10-Secretary of California Health and Human Services Agency..... 3,435,000 (2) Reimbursements –1,146,000 (3) Amount payable from the Managed Care Fund (Item 0530-001-0933) . –364,000 	

Item	Amount
0530-001-0933—For support of Secretary for California Health and Human Services Agency, for payment to Item 0530-001-0001, payable from the Managed Care Fund	364,000
0530-017-0001—For support of Secretary for California Health and Human Services Agency.....	2,914,000
Schedule:	
(1) 21-Office of HIPAA Implementa- tion.....	3,509,000
(2) Reimbursements.....	-595,000
Provisions:	
1. The funding appropriated in this item is limited to the amount specified in Control Section 17.00. These funds are to be used in support of compliance activities related to the federal Health Insurance Portability and Accountability Act (HIPAA) of 1996.	
0540-001-0005—For support of Secretary for Resources, for payment to Item 0540-001-0140, payable from the Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Fund	204,000
0540-001-0140—For support of Secretary for Resources, payable from the Environmental License Plate Fund.	2,581,000
Schedule:	
(1) 10-Administration of Resources Agency.....	17,367,000
(2) Reimbursements.....	-515,000
(3) Amount payable from the Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Fund (Item 0540-001-0005).	-204,000
(4) Amount payable from the Environ- mental Enhancement and Mitiga- tion Demonstration Program Fund (Item 0540-001-0183)	-90,000
(4.5) Amount payable from the Natural Resources Infrastructure Fund (Item 0540-001-0383)	-10,000,000
(5) Amount payable from the Federal Trust Fund (Item 0540-001-0890).	-269,000
(6) Amount payable from the River Protection Subaccount (Item 0540- 001-6015)	-16,000

Item	Amount
(7) Amount payable from the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Fund (Item 0540-001-6029).....	-1,627,000
(8) Amount payable from the Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002 (Item 0540-001-6031)	-2,065,000
0540-001-0183—For support of Secretary for Resources, for payment to Item 0540-001-0140, payable from the Environmental Enhancement and Mitigation Demonstration Program Fund.....	90,000
0540-001-0383—For state operations, Secretary for Resources, payable from the Natural Resources Infrastructure Fund, available for encumbrance or expenditure until June 30, 2007	10,000,000
Provisions:	
1. Funds appropriated in this item shall be available only if the California Ocean Protection Act is enacted pursuant to legislation enacted during the 2003–04 Regular Session.	
0540-001-0890—For support of Secretary for Resources, for payment to Item 0540-001-0140, payable from the Federal Trust Fund.....	269,000
0540-001-6015—For support of Secretary for Resources, for payment to Item 0540-001-0140, payable from the River Protection Subaccount	16,000
0540-001-6029—For support of Secretary for Resources, for payment to Item 0540-001-0140, payable from the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Fund.....	1,627,000
0540-001-6031—For support of Secretary for Resources, for payment to Item 0540-001-0140, payable from the Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002	2,065,000
0540-490—Reappropriation, Secretary for Resources. The balance of the appropriation identified in the following citation is reappropriated for purposes provided for in that appropriation and shall be available for encumbrance or expenditure until June 30, 2005: 6029—California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Fund (1) Item 0540-001-6029, Budget Act of 2003 (Ch. 157, Stats. 2003)	

Item	Amount
Provisions:	
1. Of the amount reappropriated in this item, up to \$4,575,000 shall be available for the Urban Streams Restoration Program.	
0540-491—Reappropriation, Secretary for Resources. Notwithstanding any other provision of law, the period to liquidate encumbrances of the following citations are extended to June 30, 2005:	
0001—General Fund	
(1) Item 0540-101-0001, Budget Act of 1999 (Ch. 50, Stats. 1999)	
(2) Item 0540-101-0001, Budget Act of 2000 (Ch. 52, Stats. 2000)	
(1) Grants	
(3) Item 0540-101-0001, Budget Act of 2001 (Ch. 106, Stats. 2001)	
(1) Grants	
6015—River Protection Subaccount	
(1) Item 0540-101-6015, Budget Act of 2000 (Ch. 52, Stats. 2000)	
0540-492—Reappropriation, Secretary for Resources. The balance of the appropriation identified in the following citation is reappropriated for the purposes provided for in that appropriation and shall be available for encumbrance or expenditure until June 30, 2007:	
6029—California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Fund	
(1) Item 0540-101-6029, Budget Act of 2002 (Ch. 379, Stats. 2002)	
(10) San Diego River	
0550-001-0001—For support of Secretary for Youth and Adult Correctional Agency.....	2,620,000
Schedule:	
(1) 10-Secretary for Youth and Adult Correctional Agency.....	2,620,000
0552-001-0001—For support of Office of the Inspector General, Program 10.....	8,258,000
0555-001-0001—For support of Secretary for Environmental Protection, for payment to Item 0555-001-0044.....	425,000
0555-001-0014—For support of Secretary for Environmental Protection, for payment to Item 0555-001-0044, payable from the Hazardous Waste Control Account	297,000

Item	Amount
0555-001-0028—For support of Secretary for Environmental Protection, for payment to Item 0555-001-0044, payable from the Unified Program Account .. Provisions:	1,444,000
1. Of the amount appropriated in this item, \$462,000 shall be expended as follows: (a) consistently with the provisions of legislation to be enacted during the 2003–04 Regular Session that address environmental problems associated with chrome plating facilities; or (b) to assist the metal plating industry in complying with state regulations relative to chrome plating.	
0555-001-0044—For support of Secretary for Environmental Protection, payable from the Motor Vehicle Account, State Transportation Fund.....	613,000
Schedule:	
(1) 30-Support	10,113,000
(2) Reimbursements	–1,971,000
(3) Amount payable from the General Fund (Item 0555-001-0001).....	–425,000
(4) Amount payable from the Hazardous Waste Control Account (Item 0555-001-0014)	–297,000
(5) Amount payable from the Unified Program Account (Item 0555-001-0028).....	–1,444,000
(6) Amount payable from the California Used Oil Recycling Fund (Item 0555-001-0100)	–30,000
(7) Amount payable from the Department of Pesticide Regulation Fund (Item 0555-001-0106)	–183,000
(8) Amount payable from the Recycling Market Development Revolving Loan Account (Item 0555-001-0281)	–135,000
(9) Amount payable from the Integrated Waste Management Account, Integrated Waste Management Fund (Item 0555-001-0387) ..	–433,000
(10) Amount payable from the Underground Storage Tank Cleanup Fund (Item 0555-001-0439).....	–48,000
(11) Amount payable from the State Water Quality Control Fund (Item 0555-001-0679)	–134,000

Item	Amount
(11.5) Amount payable from the Hazardous Waste Reduction Loan Account (Item 0555-001-0828).....	-1,500,000
(12) Amount payable from the Rural CUPA Reimbursement Account (Item 0555-001-1006)	-900,000
(13) Amount payable from the Environmental Enforcement and Training Account (Item 0555-001-8013).....	-2,000,000
Provisions:	
1. Notwithstanding Section 48653 of the Public Resources Code, funds appropriated in this item from the California Used Oil Recycling Fund shall be available for purposes of administration.	
0555-001-0100—For support of Secretary for Environmental Protection, for payment to Item 0555-001-0044, payable from the California Used Oil Recycling Fund.....	30,000
0555-001-0106—For support of Secretary for Environmental Protection, for payment to Item 0555-001-0044, payable from the Department of Pesticide Regulation Fund	183,000
0555-001-0281—For support of Secretary for Environmental Protection, for payment to Item 0555-001-0044, payable from the Recycling Market Development Revolving Loan Account, Integrated Waste Management Fund	135,000
0555-001-0387—For support of Secretary for Environmental Protection, for payment to Item 0555-001-0044, payable from the Integrated Waste Management Account, Integrated Waste Management Fund	433,000
0555-001-0439—For support of Secretary for Environmental Protection, for payment to Item 0555-001-0044, payable from the Underground Storage Tank Cleanup Fund.....	48,000
0555-001-0679—For support of Secretary for Environmental Protection, for payment to Item 0555-001-0044, payable from the State Water Quality Control Fund	134,000
0555-001-0828—For support of Secretary for Environmental Protection, for payment to Item 0555-001-0044, payable from the Hazardous Waste Reduction Loan Account.....	1,500,000

Item	Amount
Provisions:	
1. Notwithstanding any other provision of law, funds appropriated from this item shall be expended consistent with the legislation enacted in the 2004–05 fiscal year related to addressing environmental problems associated with chrome plating facilities.	
0555-001-1006—For support of Secretary for Environmental Protection, for payment to Item 0555-001-0044, payable from the Rural Reimbursement Account.....	900,000
0555-001-8013—For support of Secretary for Environmental Protection, for payment to Item 0555-001-0044, payable from the Environmental Enforcement and Training Account.....	2,000,000
0555-001-8020—For support of Secretary for Environmental Protection, payable from the Environmental Education Account.....	150,000
Schedule:	
(1) 30-Support	150,000
Provisions:	
1. The funding appropriated and available for expenditure in this item is limited to the amount of funding received in the Environmental Education Account established by Section 71305 of the Public Resources Code.	
0555-011-0001—For transfer by the State Controller to the Rural CUPA Reimbursement Account.....	900,000
0558-001-0001—For support of the Office of the Secretary for Education.....	786,000
Schedule:	
(1) Secretary for Education	786,000
Provisions:	
1. The amount appropriated in this item is intended for support of the Education Agency. The appropriation is an estimate of the funding needs from January 1, 2005, to June 30, 2005, inclusive. Legislation establishing the agency will be introduced and, if enacted, would be effective on or before January 1, 2005. In the event that legislation creating the agency is not effective on or before January 1, 2005, or the funds are needed prior to January 1, 2005, the unexpended balance of the funds appropriated by this item shall be available for expenditure pursuant to Item 0650-011-0001, as authorized by the Director of Finance.	

Item	Amount
0559-001-0001—For support of the California Labor and Workforce Development Agency	0
Schedule:	
(1) 10-Office of the Secretary for Labor and Workforce Development	2,079,000
(2) Reimbursements	-2,079,000
0650-001-0001—For support of Office of Planning and Research	4,273,000
Schedule:	
(1) 11-State Planning and Policy Development.....	5,379,000
(2) 21-Governor’s Office on Service and Volunteerism	2,977,000
(3) Reimbursements.....	-971,000
(4) Amount payable from the Property Acquisition Law Money Account (Item 0650-001-0002)	-494,000
(5) Amount payable from the Federal Trust Fund (Item 0650-001-0890).....	-2,618,000
0650-001-0002—For support of Office of Planning and Research, for payment to Item 0650-001-0001, payable from the Property Acquisition Law Money Account.....	494,000
0650-001-0890—For support of Office of Planning and Research, for payment to Item 0650-001-0001, payable from the Federal Trust Fund	2,618,000
0650-011-0001—For support of Office of Planning and Research	786,000
Schedule:	
(1) Office of the Secretary for Education.....	796,000
(2) Reimbursements.....	-10,000
Provisions:	
1. The funds appropriated in this item are intended for support of the Education Agency. The appropriation is an estimate of the funding needs from July 1, 2004, to December 31, 2004, inclusive. Legislation establishing the agency will be introduced and, if enacted, would be effective on or before January 1, 2005. After the effective date of such legislation, and upon the determination that all obligations of the agency in the Office of Planning and Research have been met, the unexpended balance of the funds appropriated by this	

Item	Amount
<p>item shall be available for expenditure pursuant to Item 0558-001-0001, as authorized by the Director of Finance.</p>	
<p>0650-101-0890—For local assistance, Office of Planning and Research, Program 21-Governor’s Office on Service and Volunteerism, payable from the Federal Trust Fund.....</p>	45,800,000
<p>Provisions:</p>	
<p>1. The funds appropriated in this item are for local assistance allocations approved by the Governor’s Office on Service and Volunteerism.</p>	
<p>0690-001-0001—For support of Office of Emergency Services</p>	28,693,000
<p>Schedule:</p>	
<p>(1) 15-Mutual Aid Response</p>	15,827,000
<p>(2) 35-Plans and Preparedness.....</p>	16,869,000
<p>(3) 45-Disaster Assistance.....</p>	21,013,000
<p>(4) 55.01-Administration and Executive.....</p>	6,294,000
<p>(5) 55.02-Distributed Administration and Executive</p>	-5,399,000
<p>(5.5) 65-Office of Homeland Security .</p>	1,968,000
<p>(6) Reimbursements.....</p>	-2,113,000
<p>(7) Amount payable from the Unified Program Account (Item 0690-001-0028).....</p>	-612,000
<p>(8) Amount payable from the Nuclear Planning Assessment Special Account (Item 0690-001-0029).....</p>	-907,000
<p>(9) Amount payable from the Federal Trust Fund (Item 0690-001-0890).....</p>	-22,279,000
<p>(10) Amount payable from the Federal Trust Fund (Item 0690-010-0890).</p>	-1,968,000
<p>Provisions:</p>	
<p>1. Funds appropriated in this item may be reduced by the Director of Finance, after giving notice to the Chairperson of the Joint Legislative Budget Committee, by the amount of federal funds made available for the purposes of this item in excess of the federal funds scheduled in Item 0690-001-0890.</p>	
<p>2. The Office of Emergency Services shall charge tuition for all training offered through the California Specialized Training Institute.</p>	

Item	Amount
3. Upon the approval by the Department of Finance, the Controller shall transfer such funds as are necessary between this item and Item 0690-101-0890.	
0690-001-0028—For support of Office of Emergency Services, for payment to Item 0690-001-0001, payable from the Unified Program Account	612,000
0690-001-0029—For support of Office of Emergency Services, for payment to Item 0690-001-0001, payable from the Nuclear Planning Assessment Special Account	907,000
Provisions:	
1. Pursuant to Government Code Section 8610.5(f), any unexpended funds from the appropriation in the prior fiscal year for the purposes of conducting a full participation exercise are hereby appropriated in augmentation of this item.	
0690-001-0890—For support of Office of Emergency Services, for payment to Item 0690-001-0001, payable from the Federal Trust Fund	22,279,000
Provisions:	
1. Any funds that may become available, in addition to the funds appropriated in this item, for disaster response and recovery may be allocated by the Department of Finance subject to the conditions of Section 28.00 of this act, except that, notwithstanding subdivision (d) of that section, the allocations may be made 30 days or less after notification of the Legislature.	
2. Notwithstanding any other provision of law, the funds appropriated in this item may be expended without regard to the fiscal year in which the application for reimbursement was submitted to the Federal Emergency Management Agency.	
0690-002-0001—For support of Office of Emergency Services	9,144,000
Schedule:	
(1) 50-Criminal Justice Projects	9,854,000
(2) 51-California Anti-terrorism Information Center	6,700,000
(3) Reimbursements.....	-20,000
(4) Amount payable from the Local Public Prosecutors and Public Defenders Training Fund (Item 0690-002-0241)	-72,000

Item	Amount
(5) Amount payable from the Victim Witness Assistance Fund (Item 0690-002-0425)	-1,164,000
(6) Amount payable from the High Technology Theft Apprehension and Prosecution Program Trust Fund (Item 0690-002-0597).....	-692,000
(7) Amount payable from the Federal Trust Fund (Item 0690-002-0890).	-5,462,000
Provisions:	
1. The funds appropriated in Schedule (2) shall be used to continue and expand funding for the California Anti-Terrorism Information Center Program, which shall provide investigative assistance to local and federal law enforcement agencies, provide intelligence gathering and data analysis, and create and maintain a statewide informational database to analyze and distribute information related to terrorist activities. The OES shall allocate funds to the Department of Justice for these purposes upon the request of the Department of Justice.	
2. It is the intent of the Legislature that the General Fund shall be reimbursed from future allocations of federal security-related funds that may be used for the purposes described in this item.	
0690-002-0241—For support of Office of Emergency Services, for payment to Item 0690-002-0001, payable from the Local Public Prosecutors and Public Defenders Training Fund	72,000
Provisions:	
1. Notwithstanding any other provision of law restricting the costs of administering individual programs, the full amount of this appropriation may be used by the Office of Emergency Services for administrative costs.	
0690-002-0425—For support of Office of Emergency Services, for payment to Item 0690-002-0001, payable from the Victim Witness Assistance Fund	1,164,000
0690-002-0597—For support of Office of Emergency Services, for payment to Item 0690-002-0001, payable from the High Technology Theft Apprehension and Prosecution Program Trust Fund.....	692,000
Provisions:	
1. Funds appropriated in this item are for the High Technology Theft Apprehension and Prosecution Program, as established by Chapter 5.7 (com-	

Item	Amount
<p>mening with Section 13848) of Title 6 of Part 4 of the Penal Code, as amended by Chapter 555, Statutes of 1998, and shall be deposited in the High Technology Theft Apprehension and Prosecution Program Trust Fund, established pursuant to Section 13848.4 of the Penal Code.</p>	
<p>0690-002-0890—For support of Office of Emergency Services, for payment to Item 0690-002-0001, payable from the Federal Trust Fund</p>	5,462,000
<p>0690-010-0890—For support of Office of Emergency Services for the Office of Homeland Security, for payment to Item 0690-001-0001, payable from the Federal Trust Fund</p>	1,968,000
<p>Provisions:</p>	
<p>1. The Director of the Office of Homeland Security jointly with the Department of Justice shall prepare a report for the Director of Finance, the chairperson of the fiscal committees in each house of the Legislature, and the Chairperson of the Joint Legislative Budget Committee by October 1, 2004, on the effectiveness of the California Anti-Terrorism Information Center (CATIC). This report should include the following: (a) how the CATIC funds are being spent by the Department of Justice, (b) whether or not CATIC is meeting the requirements of the Memorandum of Understanding between the Governor’s Office and the Department of Justice, (c) what should CATIC be focusing on to make them become more effective, and (d) a recommendation related to the future of CATIC. The recommendations of the report shall be used in the preparation of the 2005–06 Governor’s Budget regarding the use and appropriate placement of CATIC funds.</p>	
<p>2. As a condition of the receipt of the funds in this item, the California Anti-Terrorism Information Center (CATIC) shall enter into a new memorandum of understanding pursuant to law with the Governor’s Office that identifies the current mission of CATIC and the operation of a joint state terrorism threat assessment center.</p>	
<p>0690-013-0001—For transfer by the Controller to the High Technology Theft Apprehension and Prosecution Program Trust Fund.....</p>	660,000
<p>Provisions:</p>	
<p>1. Funds appropriated in this item are for the High Technology Theft Apprehension and Prosecution</p>	

Item	Amount
Program, as established by Chapter 5.7 (commencing with Section 13848) of Title 6 of Part 4 of the Penal Code, as amended by Chapter 555, Statutes of 1998, and shall be deposited in the High Technology Theft Apprehension and Prosecution Program Trust Fund, established pursuant to Section 13848.4 of the Penal Code.	
0690-013-0890—For transfer by the Controller from the Federal Trust Fund to the High Technology Theft Apprehension and Prosecution Program Trust Fund. Provisions:	32,000
1. Funds appropriated in this item are for the High Technology Theft Apprehension and Prosecution Program established by Chapter 5.7 (commencing with Section 13848) of Title 6 of Part 4 of the Penal Code, and shall be deposited in the High Technology Theft Apprehension and Prosecution Program Trust Fund, established pursuant to Section 13848.4 of the Penal Code.	
0690-101-0029—For local assistance, Office of Emergency Services, Program 35—Plans and Preparedness, payable from the Nuclear Planning Assessment Special Account.....	2,234,000
Provisions:	
1. Pursuant to Government Code Section 8610.5(f), any unexpended funds from the appropriation in the prior fiscal year for the purposes of conducting a full participation exercise are hereby appropriated in augmentation of this item.	
0690-101-0890—For local assistance, Office of Emergency Services, payable from the Federal Trust Fund	784,168,000
Schedule:	
(1) 35-Plans and Preparedness.....	226,442,000
(2) 45-Disaster Assistance.....	557,726,000
Provisions:	
1. Any federal funds that may become available in addition to the funds appropriated in this item for Program 45—Disaster Assistance are exempt from Section 28.00 of this act.	
0690-102-0001—For local assistance, Office of Emergency Services.....	29,643,000
Schedule:	
(1) 50.20.102-Victims Legal Resources Center	41,000
(2) 50.20.151-Domestic Violence Program.....	2,730,000

Item	Amount
(3) 50.20.152-Family Violence Prevention.....	50,000
(4) 50.20.301-Rape Crisis Program	50,000
(5) 50.20.351-Homeless Youth Project.....	396,000
(6) 50.20.352-Youth Emergency Telephone Referral	127,000
(7) 50.20.354-Child Sexual Abuse Prevention and Training	302,000
(8) 50.30.501-California Community Crime Resistance Program, to be allocated pursuant to Chapter 5 (commencing with Section 13840) of Title 6 of Part 4 of the Penal Code.....	231,000
(9) 50.30.502-War on Methamphetamine	9,500,000
(10) 50.30.503-Vertical Prosecution Block Grants	8,176,000
(11) 50.30.511-California Career Criminal Apprehension Program.....	866,000
(12) 50.30.514-Serious Habitual Offender.....	137,000
(13) 50.30.522-Evidentiary Medical Training.....	648,000
(14) 50.30.531-Vertical Defense	172,000
(15) 50.30.541-Public Prosecutors and Public Defenders.....	8,000
(16) 50.30.651-Suppression of Drug Abuse in Schools Program	690,000
(17) 50.30.661-California Gang Violence Suppression Program.....	3,090,000
(18) 50.30.672-Multi-Agency Gang Enforcement Consortium.....	93,000
(19) 50.30.815-Rural Crime Prevention Program.....	3,341,000
(20) Reimbursements	-1,005,000

Provisions:

1. Notwithstanding any other provision of law, the Office of Emergency Services may provide advance payment of up to 25 percent of grant funds awarded to community-based, nonprofit organizations, cities, school districts, counties, and other units of local government that have demonstrated cashflow problems according to the criteria set forth by the Office of Emergency Services.
2. To maximize the use of program funds and demonstrate the commitment of the grantees to pro-

Item	Amount
gram objectives, the Office of Emergency Services shall require all grantees for funds from the Gang Violence Suppression-Curfew Enforcement Strategy Program to provide local matching funds of at least 10 percent for the first and each subsequent year of operation. This match requirement applies to each agency that is to receive grant funds. An agency may meet its match requirements with an in-kind match, if approved by the Office of Emergency Services.	
0690-102-0241—For local assistance, Office of Emergency Services, payable from the Local Public Prosecutors and Public Defenders Training Fund.....	792,000
Schedule:	
(1) 50.30.541-Public Prosecutors and Public Defenders.....	792,000
Provisions:	
1. Notwithstanding any other provision of law, the Office of Emergency Services may provide advance payment of up to 25 percent of grant funds awarded to community-based, nonprofit organizations, cities, school districts, counties, and other units of local government that have demonstrated cashflow problems according to the criteria set forth by the Office of Emergency Services.	
0690-102-0425—For local assistance, Office of Emergency Services, payable from the Victim-Witness Assistance Fund	15,519,000
Schedule:	
(1) 50.20.101-Victim-Witness Assistance Program.....	10,871,000
(2) 50.20.301-Rape Crisis Program	3,670,000
(3) 50.20.353-Child Sexual Abuse and Exploitation Program	978,000
Provisions:	
1. Notwithstanding any other provision of law, the Office of Emergency Services may provide advance payment of up to 25 percent of grant funds awarded to community-based, nonprofit organizations, cities, school districts, counties, and other units of local government that have demonstrated cashflow problems according to the criteria set forth by the Office of Emergency Services.	
0690-102-0597—For local assistance, Office of Emergency Services, payable from the High Technology Theft Apprehension and Prosecution Program Trust Fund	13,518,000

Item Amount

Schedule:

- (1) 50.30.562-High Technology Theft Apprehension and Prosecution Program..... 13,518,000

Provisions:

1. Funds appropriated in this item are for the High Technology Theft Apprehension and Prosecution Program, as established by Chapter 5.7 (commencing with Section 13848) of Title 6 of Part 4 of the Penal Code, as amended by Chapter 555, Statutes of 1998, and shall be deposited in the High Technology Theft Apprehension and Prosecution Program Trust Fund, established pursuant to Section 13848.4 of the Penal Code.
2. All grantees receiving funds appropriated in this item shall be required to provide matching funds equal to 25 percent of the amount of grant funding received by them from the High Technology Theft Apprehension and Prosecution Program Trust Fund.

0690-102-0890—For local assistance, Office of Emergency Services, payable from the Federal Trust Fund 134,124,000

Schedule:

- (1) 50.20.151-Domestic Violence Program..... 8,751,000
- (2) 50.20.161-Violence Against Women Act..... 12,990,000
- (3) 50.20.171-Rural Domestic Violence/Child Victimization 571,000
- (4) 50.20.302-Rape Prevention 5,571,000
- (5) 50.20.451-Victims of Crime Act (VOCA) 40,698,000
- (6) 50.30.523-Forensic Sciences Improvement Act 358,000
- (7) 50.30.525-Child Justice Act..... 1,775,000
- (8) 50.30.550-Byrne State/Local Law Enforcement Assistance..... 52,118,000
- (9) 50.30.555-Residential Substance Abuse Treatment..... 9,135,000
- (10) 50.30.556-Local Law Enforcement Block Grants 882,000
- (11) 50.30.559-Peace Officer Protective Equipment 1,275,000

Provisions:

1. Notwithstanding any other provision of law, the Office of Emergency Services may provide ad-

Item	Amount
<p>vance payment of up to 25 percent of grant funds awarded to community-based, nonprofit organizations, cities, school districts, counties, and other units of local government that have demonstrated cashflow problems according to the criteria set forth by the Office of Emergency Services.</p> <p>2. Of the funds appropriated in this item, \$224,000 of the amount allocated for the Victims of Crime Act Program (50.20.451) shall be provided for support of the Office of Victims Services within the Department of Justice.</p>	
<p>0690-112-0001—For local assistance, Office of Emergency Services, for disaster recovery costs</p> <p>Provisions:</p> <p>1. The funds appropriated in this item are for the state’s share of response and recovery costs for disasters.</p>	56,278,000
<p>0690-113-0001—For transfer by the Controller to the High Technology Theft Apprehension and Prosecution Program Trust Fund.....</p> <p>Provisions:</p> <p>1. Funds appropriated in this item are for the High Technology Theft Apprehension and Prosecution Program, as established by Chapter 5.7 (commencing with Section 13848) of Title 6 of Part 4 of the Penal Code, as amended by Chapter 555 of the Statutes of 1998, and shall be deposited in the High Technology Theft Apprehension and Prosecution Program Trust Fund, established pursuant to Section 13848.4 of the Penal Code.</p>	13,300,000
<p>0690-113-0890—For transfer by the Controller from the Federal Trust Fund to the High Technology Theft Apprehension and Prosecution Program Trust Fund.</p> <p>Provisions:</p> <p>1. Funds appropriated in this item are for the High Technology Theft Apprehension and Prosecution Program established by Chapter 5.7 (commencing with Section 13848) of Title 6 of Part 4 of the Penal Code, and shall be deposited in the High Technology Theft Apprehension and Prosecution Program Trust Fund, established pursuant to Section 13848.4 of the Penal Code.</p>	218,000
<p>0690-115-0001—For local assistance, Office of Emergency Services, for volunteer disaster service worker’s compensation</p>	663,000

Item	Amount
Provisions:	
1. The funds appropriated in this item shall be used to pay approved volunteer disaster service worker's compensation claims and administrative expenditures related to the payment of such claims by the State Compensation Insurance Fund.	
0690-295-0001—For local assistance, Office of Emergency Services, for reimbursement, in accordance with the provision of Section 6 of Article XIII B of the California Constitution or Section 17561 of the Government Code, of the costs of any new program or increased level of service of an existing program mandated by statute or executive order, for disbursement by the State Controller	0
Schedule:	
(1) 98.01.103.280-Deaf Teletype Equipment (Ch. 1032, Stats. 1980).....	0
Provisions:	
1. Pursuant to Section 17581 of the Government Code, the mandate identified in the appropriation schedule of this item with an appropriation of \$0 and included in the language of this provision is specifically identified by the Legislature for suspension during the 2004–05 fiscal year:	
(1) Deaf Teletype Equipment (Ch. 1032, Stats. 1980).	
0690-296-0001—For local assistance, Office of Emergency Services, for reimbursement, in accordance with the provisions of Section 6 of Article XIII B of the California Constitution or Section 17561 of the Government Code, of the costs of any new program or increased level of service of an existing program mandated by statute or executive order, for disbursement by the State Controller	2,000
Schedule:	
(1) 98.01.124.992-Threats Against Peace Officers (Ch. 1249, Stats. 1992, and Ch. 666, Stats. 1995) ...	1,000
(2) 98.01.041.195-Crime Victims' Rights (Ch. 411, Stats. 1995)	1,000
(3) 98.01.003.694-Sex Crime Confidentiality (Ch. 36, Stats. 1994, 1st Ex. Sess.)	0
Provisions:	
1. Except as provided in Provision 2 of this item, allocations of funds provided in this item to the ap-	

Item

Amount

appropriate local entities shall be made by the State Controller in accordance with the provisions of each statute or executive order that mandates the reimbursement of the costs, and shall be audited to verify the actual amount of the mandated costs in accordance with subdivision (d) of Section 17561 of the Government Code. Audit adjustments to prior year claims may be paid from this item. Funds appropriated in this item may be used to provide reimbursement pursuant to Article 5 (commencing with Section 17615) of Chapter 4 of Part 7 of Division 4 of Title 2 of the Government Code.

2. If any of the scheduled amounts are insufficient to provide full reimbursement of costs, the State Controller may, upon notifying the Director of Finance in writing, augment those deficient amounts from the unencumbered balance of any other scheduled amounts therein. No order may be issued pursuant to this provision unless written notification of the necessity therefor is provided to the chairperson of the committee in each house which considers appropriation and the Chairperson of the Joint Legislative Budget Committee or his or her designee.
3. Pursuant to Section 17581 of the Government Code, mandates identified in the appropriate schedule of this item with an appropriation of \$0 and included in the language of this provision are specifically identified by the Legislature for suspension during the 2004–05 fiscal year:
 - (3) Sex Crime Confidentiality (Ch. 36, Stats. 1994, 1st Ex. Sess.)

0690-490—Reappropriation, Office of Emergency Services. The balance of the appropriation provided in the following citations is reappropriated for the purposes, and subject to the limitations, unless otherwise specified, provided for in the appropriations and shall be available for encumbrance and expenditure until June 30, 2005:

0001—General Fund

- (1) Item 0690-301-0001, Budget Act of 2003 (Ch. 157, Stats. 2003)
 - (1) 80.10.008-Sacramento: OES Headquarters Perimeter Fence—Working drawings

Item	Amount
0690-491—Reappropriation, Office of Emergency Services. The balance of the appropriations provided in the following citations are reappropriated to the Office of Emergency Services for the purposes provided for in Section 25.00 of the Budget Act of 2003 (Ch. 157, Stats. 2003) and shall be available for encumbrance or expenditure until June 30, 2005:	
0001—General Fund	
(1) Item 8100-101-0001, Budget Act of 2003 (Ch. 157, Stats. 2003). Up to \$25,628,000 pursuant to Section 25.00 of the Budget Act of 2003 (Ch. 157, Stats. 2003)	
0241—Local Public Prosecutors and Public Defenders Training Fund	
(1) Item 8100-101-0241, Budget Act of 2003 (Ch. 157, Stats. 2003). Up to \$432,000 pursuant to Section 25.00 of the Budget Act of 2003 (Ch. 157, Stats. 2003).	
0425—Victim-Witness Assistance Fund	
(1) Item 8100-101-0425, Budget Act of 2003 (Ch. 157, Stats. 2003). Up to \$8,541,000 pursuant to Section 25.00 of the Budget Act of 2003 (Ch. 157, Stats. 2003).	
0597—High Technology Theft Apprehension and Prosecution Program Trust Fund	
(1) Item 8100-101-0597, Budget Act of 2003 (Ch. 157, Stats. 2003). Up to \$7,142,000 pursuant to Section 25.00 of the Budget Act of 2003 (Ch. 157, Stats. 2003).	
0750-001-0001—For support of Office of the Lieutenant Governor.....	2,656,000
0820-001-0001—For support of Department of Justice..	300,395,000
Schedule:	
(1) 11.01-Directorate-Administration.....	24,552,000
(2) 11.02-Distributed Directorate-Administration	-24,552,000
(3) 12.01-Legal Support and Technology.....	43,907,000
(4) 12.02-Distributed Legal Support and Technology.....	-43,907,000
(5) 25-Executive Programs.....	13,704,000
(6) 30-Civil Law.....	107,061,000
(7) 40-Criminal Law.....	107,227,000
(8) 45-Public Rights	62,313,000
(9) 50-Law Enforcement.....	149,287,000

Item	Amount
(10) 60-California Justice Information Services.....	152,413,000
(11) 65-Gambling Control.....	14,344,000
(12) 70-Firearms.....	12,204,000
(14) Reimbursements.....	-132,944,000
(15) Amount payable from the Attorney General Antitrust Account (Item 0820-001-0012)	-1,187,000
(16) Amount payable from Hazardous Waste Control Account (Item 0820-001-0014)	-1,787,000
(17) Amount payable from the Fingerprint Fees Account (Item 0820-001-0017).....	-63,237,000
(18) Amount payable from Firearms Safety Account (Item 0820-001-0032).....	-317,000
(19) Amount payable from the Motor Vehicle Account, State Transportation Fund (Item 0820-001-0044).....	-20,933,000
(20) Amount payable from the Department of Justice Sexual Habitual Offender Fund (Item 0820-001-0142).....	-2,664,000
(21) Amount payable from the Travel Seller Fund (Item 0820-001-0158).....	-1,003,000
(22) Amount payable from Conservatorship Registry Fund (Item 0820-001-0195).....	-47,000
(23) Amount payable from the Restitution Fund (Item 0820-001-0214)...	-58,000
(24) Amount payable from the Sexual Predator Public Information Account (Item 0820-001-0256).....	-58,000
(25) Amount payable from the Indian Gaming Special Distribution Fund (Item 0820-001-0367)	-9,270,000
(26) Amount payable from the False Claims Act Fund (Item 0820-001-0378).....	-11,348,000
(27) Amount payable from the Dealers' Record of Sale Special Account (Item 0820-001-0460)	-8,403,000

Item	Amount
(28) Amount payable from the Toxic Substances Control Account (Item 0820-001-0557)	-2,135,000
(29) Amount payable from the Department of Justice Child Abuse Fund (Item 0820-001-0566)	-329,000
(30) Amount payable from the Gambling Control Fund (Item 0820-001-0567)	-6,337,000
(31) Amount payable from the Gambling Control Fines and Penalties Account (Item 0820-001-0569).....	-43,000
(32) Amount payable from the Federal Trust Fund (Item 0820-001-0890).....	-32,958,000
(33) Amount payable from the Federal Asset Forfeiture Account, Special Deposit Fund (Item 0820-001-0942).....	-1,548,000
(34) Amount payable from the State Asset Forfeiture Account, Special Deposit Fund (Item 0820-011-0942).....	-529,000
(35) Amount payable from the Firearms Safety and Enforcement Special Fund (Item 0820-001-1008)...	-2,903,000
(36) Amount payable from the Missing Persons DNA Database Fund (Item 0820-001-3016)	-3,103,000
(37) Amount payable from the Public Rights Law Enforcement Special Fund (Item 0820-001-3053).....	-518,000
(38) Amount payable from the Rate Payer Relief Fund (Item 0820-001-3061).....	-14,499,000
Provisions:	
1. The Attorney General shall submit to the Legislature, the Department of Finance, and the Governor the quarterly and annual reports that he or she submits to the federal government on the activities of the Medi-Cal Fraud Unit.	
2. Notwithstanding any other provision of law, the Department of Justice may purchase or lease vehicles of any type or class that, in the judgment of the Attorney General or his or her designee, are necessary to the performance of the investigatory and enforcement responsibilities of the Depart-	

Item	Amount
ment of Justice, from the funds appropriated for that purpose in this item.	
3. Notwithstanding Section 28.50 of this act, the Attorney General may augment the reimbursement authority provided in this item by up to an aggregate of 10 percent above the amount approved in this act for the Civil Law Division and the Public Rights Division in cases where the legal representation needs of client agencies are secured by an interagency agreement or letter of commitment and the corresponding expenditure authority has not been provided in this item. The Attorney General shall notify the chairpersons of the budget committees, the Joint Legislative Budget Committee and the Department of Finance within 15 days after the augmentation is made as to the amount and justification of the augmentation, and the program that has been augmented.	
4. Of the amount included in Schedule (8) of this item, \$14,499,000 is available for costs related to litigation by the Attorney General’s Energy Task Force. Upon settlement of cases in the above item by the Energy Task Force, the Attorney General shall secure an agreement or petition the courts for recovery of costs. Any recovery of costs shall be deposited in the General Fund to repay Energy Task Force costs appropriated in this item.	
5. Of the amount included in Schedule (6) of this item, \$1,500,000 is available for costs related to litigation for the 1986 and 1997 California floods. Any funds not expended for this specific purpose shall revert to the General Fund.	
6. The Department of Finance may submit a request for funding pursuant to Items 9840-001-0001, 9840-001-0494, and 9840-001-0988 if flood litigation expenses exceed the amount appropriated for this purpose.	
7. Of the amount included in Schedule (6) of this item, \$5,126,000 is available for costs related to the Lloyd’s of London (Stringfellow) litigation. Any funds not expended for this specific purpose as of June 30, 2005, shall revert immediately to the General Fund.	
0820-001-0012—For support of Department of Justice, for payment to Item 0820-001-0001, payable from the Attorney General Antitrust Account	1,187,000

Item	Amount
0820-001-0014—For support of Department of Justice, for payment to Item 0820-001-0001, payable from the Hazardous Waste Control Account.....	1,787,000
0820-001-0017—For support of Department of Justice, for payment to Item 0820-001-0001, payable from the Fingerprint Fees Account, pursuant to subdivision (e) of Section 11105 of the Penal Code.....	63,237,000
0820-001-0032—For support of Department of Justice, for payment to Item 0820-001-0001, payable from the Firearms Safety Account	317,000
0820-001-0044—For support of Department of Justice, for payment to Item 0820-001-0001, payable from the Motor Vehicle Account, State Transportation Fund	20,933,000
0820-001-0142—For support of Department of Justice, for payment to Item 0820-001-0001, payable from the Department of Justice Sexual Habitual Offender Fund	2,664,000
Provisions:	
1. The amount appropriated in this item includes revenues derived from the assessment of fines and penalties imposed as specified in Section 13332.18 of the Government Code.	
0820-001-0158—For support of Department of Justice, for payment to Item 0820-001-0001, payable from the Travel Seller Fund	1,003,000
0820-001-0195—For support of Department of Justice, for payment to Item 0820-001-0001, payable from the Conservatorship Registry Fund.....	47,000
0820-001-0214—For support of Department of Justice, for payment to Item 0820-001-0001, payable from the Restitution Fund	58,000
0820-001-0256—For support of Department of Justice, for payment to Item 0820-001-0001, payable from the Sexual Predator Public Information Account.....	58,000
0820-001-0367—For support of Department of Justice, for payment to Item 0820-001-0001, payable from the Indian Gaming Special Distribution Fund	9,270,000
0820-001-0378—For support of Department of Justice, for payment to Item 0820-001-0001, payable from the False Claims Act Fund.....	11,348,000
0820-001-0460—For support of Department of Justice, for payment to Item 0820-001-0001, payable from the Dealers' Record of Sale Special Account.....	8,403,000

Item	Amount
Provisions:	
1. Dealers' Record of Sale fees collected pursuant to the state law for the registration of assault weapons shall not exceed \$20 per registrant.	
0820-001-0557—For support of Department of Justice, for payment to Item 0820-001-0001, payable from the Toxics Substances Control Account	2,135,000
0820-001-0566—For support of Department of Justice, for payment to Item 0820-001-0001, payable from Department of Justice Child Abuse Fund.....	329,000
0820-001-0567—For support of Department of Justice, for payment to Item 0820-001-0001, payable from Gambling Control Fund	6,337,000
0820-001-0569—For support of Department of Justice, for payment to Item 0820-001-0001, payable from Gambling Control Fines and Penalties Account	43,000
0820-001-0890—For support of Department of Justice, for payment to Item 0820-001-0001, payable from the Federal Trust Fund.....	32,958,000
0820-001-0942—For support of Department of Justice, for payment to Item 0820-001-0006, payable from the Federal Asset Forfeiture Account, Special Deposit Fund	1,548,000
0820-001-1008—For support of Department of Justice, for payment to Item 0820-001-0001, payable from the Firearms Safety and Enforcement Special Fund.	2,903,000
0820-001-3016—For support of Department of Justice, for payment to Item 0820-001-3016 payable from the Missing Persons DNA Database Fund	3,103,000
0820-001-3053—For support of Department of Justice, for payment to Item 0820-001-0001, payable from the Public Rights Law Enforcement Special Fund ..	518,000
0820-001-3061—For support of Department of Justice, for payment to Item 0820-001-0001, payable from the Rate Payer Relief Fund	14,499,000
0820-003-0001—For support of Department of Justice, for rental payments on lease-revenue bonds.....	2,715,000
Schedule:	
(1) Base Rental and Fees	2,700,000
(2) Insurance	15,000
Provisions:	
1. The Controller shall transfer funds appropriated in this item according to a schedule to be provided by the State Public Works Board. The schedule shall be provided on a monthly basis or as otherwise might be needed to ensure debt requirements are met.	

Item	Amount
0820-011-0942—For support of Department of Justice, for payment to Item 0820-001-0001, payable from the State Asset Forfeiture Account, Special Deposit Fund	529,000
0820-101-0001—For local assistance, Department of Justice	3,045,000
Schedule:	
(1) 40-Criminal law	3,045,000
Provisions:	
1. The funds appropriated in this item shall be allocated to district attorneys for vertical prosecution activities related to implementation of the Battered Women Protection Act of 1994, pursuant to Chapter 885 of the Statutes of 1997.	
0820-101-0214—For local assistance, Department of Justice	2,942,000
Provisions:	
1. The funds appropriated in this item shall be allocated to support the California Witness Protection Program, pursuant to Chapter 507, Statutes of 1997. Any funds not expended for this specific purpose shall revert to the General Fund.	
2. Of the amount appropriated in this item, and the amount appropriated in Item 0820-001-0001, the department may expend up to \$150,000 for the administration of the California Witness Protection Program, including the review of appropriate policies and procedures for the submittal and review of claims.	
0820-101-0460—For local assistance, Department of Justice, payable from the Dealers' Record of Sale Special Account.....	33,000
Schedule:	
(1) 70-Firearms.....	33,000
0820-101-0641—For local assistance, Department of Justice, payable from the Domestic Violence Restraining Order Reimbursement Fund	2,002,000
Provisions:	
1. The funds appropriated in this item shall be expended to reimburse local law enforcement or other criminal justice agencies pursuant to Chapter 707 of the Statutes of 1998.	
0820-111-0001—For transfer by the Controller to the Department of Justice DNA Testing Fund.....	225,000

Item	Amount
Provisions:	
1. The amount transferred in this item shall be expended to reimburse counties pursuant to Chapter 696 of the Statutes of 1998.	
0820-111-0255—For local assistance, Department of Justice, payable from the Department of Justice DNA Testing Fund.....	225,000
Provisions:	
1. The funds appropriated in this item shall be expended to reimburse counties pursuant to Chapter 696 of the Statutes of 1998.	
0820-295-0001—For local assistance, Department of Justice, for reimbursement, in accordance with the provisions of Section 6 of Article XIII B of the California Constitution or Section 17561 of the Government Code, of the costs of any new program or increased level of service of an existing program mandated by statute or executive order, for disbursement by the State Controller	1,000
Schedule:	
(1) 98.01.139.976-Custody of Minors (Ch. 1399, Stats. 1976)	1,000
(2) 98.01.033.790-Stolen Vehicle Notification (Ch. 337, Stats. 1990).....	0
(3) 98.01.048.598-Sex Offenders: Disclosure by Law Enforcement Officers (Ch. 485, Stats. 1998).....	0
(4) 98.01.110.592-Misdemeanors: Booking and Fingerprinting (Ch. 1105, Stats 1992).....	0
Provisions:	
1. Except as provided in Provision 2, allocations of funds provided in this item to the appropriate local entities shall be made by the State Controller in accordance with the provisions of each statute or executive order that mandates the reimbursement of the costs, and shall be audited to verify the actual amount of the mandated costs in accordance with subdivision (d) of Section 17561 of the Government Code. Audit adjustments to prior year claims may be paid from this item. Funds appropriated in this item may be used to provide reimbursement pursuant to Article 5 (commencing with Section 17615) of Chapter 4 of Part 7 of Division 4 of Title 2 of the Government Code.	

Item	Amount
<ul style="list-style-type: none"> 2. If any of the scheduled amounts are insufficient to provide full reimbursement of costs, the State Controller may, upon notifying the Director of Finance in writing, augment those deficient amounts from the unencumbered balance of any other scheduled amounts therein. No order may be issued pursuant to this provision unless written notification of the necessity therefor is provided to the chairperson of the committee in each house which considers appropriation and the Chairperson of the Joint Legislative Budget Committee or his or her designee. 3. Pursuant to Section 17581 of the Government Code, mandates identified in the appropriation schedule of this item with an appropriation of \$0 and included in the language of this provision are specifically identified by the Legislature for suspension during the 2004–05 fiscal year: <ul style="list-style-type: none"> (2) Stolen Vehicles Notification (Ch. 337, Stats. 1990) (3) Sex Offenders: Disclosure by Law Enforcement Officers (Ch. 485, Stats. 1998) (4) Misdemeanors: Booking and Fingerprinting (Ch. 1105, Stats. 1992) 	
0820-301-0660—For capital outlay, Department of Justice, payable from the Public Buildings Construction Fund	8,098,000
Schedule:	
(1) 85.60.010-Santa Barbara Replacement Laboratory—Construction....	8,098,000
Provisions:	
<ul style="list-style-type: none"> 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 construction of the project authorized by this item. 2. The State Public Works Board and the Department of Justice may obtain interim financing for the project costs authorized in this item from any appropriate source, including, but not limited to, Section 15849.1 of the Government Code and the Pooled Money Investment Account pursuant to Sections 16312 and 16313 of the Government Code. 	

Item

Amount

3. The State Public Works Board may authorize the augmentation of the cost of construction of the projects scheduled in this item pursuant to the board's authority under Section 13332.11 of the Government Code. In addition, the State Public Works 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 construction of the projects, the costs of financing a debt service fund, and the cost of issuance of permanent financing for the project. This additional amount may include interest payable on any interim financing obtained.
4. The Department of Justice 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.
5. The State Public Works Board shall not be deemed a lead or responsible agency for purposes of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) for any activities under the State Building Construction Act of 1955 (Part 10b (commencing with Section 15800) of Division 3 of Title 2 of the Government Code). This section does not exempt the Department of Justice from the requirements of the California Environmental Quality Act. This section is declarative of existing law.

0820-491—Reappropriation, Department of Justice. The balance specified below of the appropriation for the Armed Prohibited Persons Database System provided in the following citation is reappropriated for the purpose provided for in that appropriation and shall be available for encumbrance or expenditure until June 30, 2005.

0001—General Fund

- (1) Item 0820-001-0001, Budget Act of 2003, (Ch. 157, Stats. 2003). Up to \$2,663,000 appropriated in Program 60—California Justice Information Services.

Item	Amount
0820-495—Reversion, Department of Justice. As of June 30, 2004, the unencumbered balance of the appropriation provided in the following citation shall revert to the fund balance of the fund from which the appropriation was made:	
0660—Public Buildings Construction Fund	
(1) Item 0820-301-0660, Budget Act of 2002 (Ch. 379, Stats. 2002)	
(1) 85.60.010-Santa Barbara Replacement Laboratory—Construction	
0840-001-0001—For support of State Controller.....	70,434,000
Schedule:	
(1) 100000-Personal Services	73,121,000
(2) 300000-Operating Expenses and Equipment	40,732,000
(2.5) Amount payable from various special and nongovernmental cost funds (Section 25.25).....	-2,520,000
(3) Reimbursements.....	-31,881,000
(4) Amount payable from the Motor Vehicle Fuel Account, Transportation Tax Fund (Item 0840-001-0061).....	-3,415,000
(5) Amount payable from the Highway Users Tax Account, Transportation Tax Fund (Item 0840-001-0062)...	-978,000
(6) Amount payable from the Local Revenue Fund (Item 0840-001-0330).....	-461,000
(7) Amount payable from the State School Building Lease-Purchase Fund (Item 0840-001-0344).....	-801,000
(8) Amount payable from the Federal Trust Fund (Item 0840-001-0890).	-1,200,000
(9) Amount payable from the State Penalty Fund (Item 0840-001-0903).....	-1,104,000
(10) Amount payable from various other unallocated nongovernmental cost funds (Retail Sales Tax Fund) (Item 0840-001-0988)	-206,000
(11) Amount payable from other unallocated special funds (Item 0840-011-0494)	-45,000
(12) Amount payable from unallocated bond funds (Item 0840-011-0797).	-185,000

Item	Amount
(13) Amount payable from various other unallocated nongovernmental cost funds (Item 0840-011-0988).....	-44,000
(14) Amount payable from the Public Transportation Account, State Transportation Fund (Section 25.50).....	-9,000
(15) Amount payable from the Highway Users Tax Account, Transportation Tax Fund (Section 25.50) ...	-166,000
(16) Amount payable from the Motor Vehicle License Fee Account, Transportation Tax Fund (Section 25.50).....	-204,000
(17) Amount payable from the DMV Local Agency Collection Fund (Section 25.50)	-1,000
(18) Amount payable from the Trial Court Trust Fund (Section 25.50) .	-79,000
(19) Amount payable from the Timber Tax Fund (Section 25.50).....	-2,000
(20) Amount payable from the Public Safety Account, Local Public Safety Fund (Section 25.50).....	-118,000

Provisions:

1. The appropriation made in this item shall be in lieu of the appropriation in Section 1564 of the Code of Civil Procedure for all costs, expenses, or obligations connected with the administration of the Unclaimed Property Law, with the exception of payment of owners' or holders' claims pursuant to Section 1540, 1542, 1560, or 1561 of the Code of Civil Procedure, or of payment of the costs of compensating contractors for locating and recovering unclaimed property due the state.
2. Of the claims received for reimbursement of court-ordered or voluntary desegregation programs pursuant to Sections 42243.6, 42247, and 42249 of the Education Code, the Controller shall pay only those claims that have been subjected to audit by school districts in accordance with the Controller's procedures manual for conducting audits of education desegregation claims. Furthermore, the Controller shall pay only those past-

Item	Amount
<p>year actual claims for desegregation program costs that are accompanied by all reports issued by the auditing entity, unless the auditing entity was the Controller.</p>	
<p>3. No less than 0.9 personnel-year in the Audits Division shall be used to audit education desegregation claims.</p>	
<p>4. The Controller may, with the concurrence of the Director of Finance and the Chairperson of the Joint Legislative Budget Committee, bill affected state departments for activities required by Section 20050 of the State Administrative Manual, relating to the administration of federal pass-through funds.</p> <p>No billing may be sent to affected departments sooner than 30 days after the Chairperson of the Joint Legislative Budget Committee has been notified by the Director of Finance that he or she concurs with the amounts specified in the billings.</p>	
<p>5. (a) Notwithstanding subdivision (b) of Section 1531 of the Code of Civil Procedure, the Controller may publish notice in any manner that the Controller determines reasonable, provided that (1) none of the moneys used for this purpose is redirected from funding for the Controller's audit activities, (2) no photograph is used in the publication of notice, and (3) no elected official's name is used in the publication of notice.</p> <p>(b) No funds appropriated in this act may be expended by the Controller to provide general information to the public, other than holders (as defined in subdivision (e) of Section 1501 of the Code of Civil Procedure) of unclaimed property, concerning the unclaimed property program or possible existence of unclaimed property held by the Controller's office, except for informational announcements to the news media, through the exchange of information on electronic bulletin boards, or no more than \$15,000 per year to inform the public about this program in activities already organized by the Controller for other purposes. This restriction does not apply to sending individual notices to property owners (as required in subdivision (d) of Section 1531 of the Code of Civil Procedure).</p>	

Item	Amount
<p>6. Of the moneys appropriated to the Controller in this act, the Controller shall not expend more than \$500,000 to conduct posteligibility fraud audits of the Supplemental Security Income/State Supplementary Payment Program.</p> <p>7. The Commission on State Mandates shall provide, in applicable parameters and guidelines, as follows:</p> <p style="padding-left: 2em;">(a) If a local agency or school district contracts with an independent contractor for the preparation and submission of reimbursement claims, the costs reimbursable by the state for that purpose shall not exceed the lesser of (1) 10 percent of the amount of the claims prepared and submitted by the independent contractor, or (2) the actual costs that would necessarily have been incurred for that purpose if performed by employees of the local agency or school district.</p> <p style="padding-left: 2em;">(b) The maximum amount of reimbursement provided in subdivision (a) may be exceeded only if the local agency or school district establishes, by appropriate documentation, that the preparation and submission of these claims could not have been accomplished without incurring the additional costs claimed by the local agency or school district.</p> <p>8. The funds appropriated to the Controller in this item may not be expended for any performance review or performance audit except pursuant to specific statutory authority. It is the intent of the Legislature that audits conducted by the Controller, or under the direction of the Controller, shall be fiscal audits that focus on claims and disbursements, as provided for in Section 12410 of the Government Code. Any report, audit, analysis, or evaluation issued by the controller for the 2004–05 fiscal year shall cite the specific statutory or constitutional provision authorizing the preparation and release of the report, audit, analysis, or evaluation.</p> <p>9. The Controller shall deliver his or her monthly report on General Fund cash receipts and disbursements within 10 days after the close of each month to the Joint Legislative Budget Committee,</p>	

Item	Amount
the fiscal committees of the Legislature, the Department of Finance, the Treasurer's office, and the Office of the Legislative Analyst.	
10. For purposes of the review and payment of any claim for reimbursement by local government submitted pursuant to Section 54954.4 of the Government Code, the Controller shall use the procedures that were in effect at the time the claim was submitted.	
11. Pursuant to subdivision (c) of Section 1564 of the Code of Civil Procedure, the Controller shall transfer all moneys in the Abandoned Property Account in excess of \$50,000 to the General Fund no less frequently than at the end of each month. This transfer shall include unclaimed Proposition 103 insurance rebate moneys pursuant to Section 1861.01 of the Insurance Code and Section 1523 of the Code of Civil Procedure.	
0840-001-0061—For support of State Controller, for payment to Item 0840-001-0001, payable from the Motor Vehicle Fuel Account, Transportation Tax Fund	3,415,000
0840-001-0062—For support of State Controller, for payment to Item 0840-001-0001, payable from the Highway Users Tax Account, Transportation Tax Fund	978,000
0840-001-0330—For support of State Controller, for payment to Item 0840-001-0001, payable from the Local Revenue Fund.....	461,000
0840-001-0344—For support of State Controller, for payment to Item 0840-001-0001, payable from the State School Building Lease-Purchase Fund	801,000
0840-001-0890—For support of State Controller, for payment to Item 0840-001-0001, payable from the Federal Trust Fund	1,200,000
0840-001-0903—For support of State Controller, for payment to Item 0840-001-0001, payable from the State Penalty Fund.....	1,104,000
0840-001-0988—For support of State Controller, for payment to Item 0840-001-0001, payable from various other unallocated nongovernmental cost funds (Retail Sales Tax Fund)	206,000
0840-011-0494—For support of State Controller, for payment to Item 0840-001-0001, payable from other unallocated special funds	45,000

Item	Amount
Provisions:	
1. Notwithstanding any other provision of law, the Director of Finance may authorize expenditures in excess of the amount appropriated in this item not sooner than 30 days after notification in writing of the necessity therefor is provided to the chairpersons of the fiscal committees and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the chairperson of the committee, or his or her designee, may in each instance determine.	
0840-011-0797—For support of State Controller, for payment to Item 0840-001-0001, payable from unallocated bond funds.....	185,000
Provisions:	
1. Notwithstanding any other provision of law, the Director of Finance may authorize expenditures in excess of the amount appropriated in this item not sooner than 30 days after notification in writing of the necessity therefor is provided to the chairpersons of the fiscal committees and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the chairperson of the committee, or his or her designee, may in each instance determine.	
0840-011-0988—For support of State Controller, for payment to Item 0840-001-0001, payable from various other unallocated nongovernmental cost funds..	44,000
Provisions:	
1. Notwithstanding any other provision of law, the Director of Finance may authorize expenditures in excess of the amount appropriated in this item not sooner than 30 days after notification in writing of the necessity therefor is provided to the chairpersons of the fiscal committees and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the chairperson of the committee, or his or her designee, may in each instance determine.	
0840-101-0979—For allocation by the Controller from the California Firefighters’ Memorial Fund.....	500,000
Provisions:	
1. The funds appropriated in this item are to be allocated as follows:	
(a) To the Franchise Tax Board and Controller for reimbursement of costs incurred in connection with duties under Article 9 (commencing	

Item	Amount
with Section 18801) of Chapter 3 of Part 10.2 of Division 2 of the Revenue and Taxation Code.	
(b) To the California Fire Foundation the balance in the fund for the construction of a memorial as authorized in that article.	
0845-001-0217—For support of Department of Insurance, payable from the Insurance Fund	138,960,000
Schedule:	
(1) 10-Regulation of Insurance Companies and Insurance Producers	58,235,000
(2) 12-Consumer Protection	43,014,000
(3) 20-Fraud Control.....	36,109,000
(4) 30-Tax Collection and Audit.....	1,852,000
(5) 50.01-Administration.....	24,674,000
(6) 50.02-Distributed Administration ...	-24,674,000
(7) Reimbursements.....	-250,000
Provisions:	
1. Of the funds appropriated in this item, the Controller shall transfer one-half of \$3,436,000 upon passage of the Budget Act and the remaining half on January 1, 2005, to the Department of Aging for support of the Health Insurance Counseling and Advocacy Program.	
2. Of the funds appropriated in this item, the Controller shall transfer one-half of \$556,000 upon passage of the Budget Act and the remaining half on January 1, 2005, to the State and Consumer Services Agency for support of the Office of Insurance Advisor, to provide assistance to the Governor on insurance-related matters. The unencumbered balance, as determined by the State and Consumer Services Agency for the 2004–05 fiscal year, shall revert to the Insurance Fund.	
3. Of the funds appropriated in this item, an amount not to exceed \$600,000 shall be used solely to cover intervenor compensation costs allowable under subdivision (b) of Section 1861.10 of the Insurance Code.	
0845-011-0285—For transfer by the State Controller from the Earthquake Recovery Fund to the General Fund	(2,900,000)
0845-101-0217—For local assistance, Department of Insurance, Program 20-Fraud Control, payable from the Insurance Fund	38,963,000

Item	Amount
0845-495—Reversion, California Department of Insurance. As of June 30, 2004, the balance of the appropriation provided in the following citation shall revert to the fund from which the appropriation was made:	
0285—California Earthquake Recovery Fund	
(1) Chapter 899, Statutes of 1995, as amended by Chapter 796, Statutes of 1999 and Chapter 488, Statutes of 2003.	
0850-001-0562—For support of the California State Lottery Commission, for payment of expenses of the lottery, including all costs incurred in the operation and administration of the lottery, payable from the State Lottery Fund.....	(365,745,000)
Provisions:	
1. Notwithstanding any other provision of law, the California State Lottery Commission shall submit to the Department of Finance, the Joint Legislative Budget Committee, and the budget committees of the Legislature, all of the following:	
(a) In conjunction with submission of the commission’s quarterly financial statements, a report comparing estimated administrative costs to budgeted administrative costs for the 2005–06 fiscal year. The report shall be in sufficient detail that they may be used for legislative review purposes and for sustaining a thorough ongoing review of the expenditures of the California State Lottery Commission. These reports shall include a reporting of the lottery sales revenues and shall detail any administrative funding that is used to supplement the prize pool of any lottery game.	
(b) No later than January 10, 2005, a copy of the proposed administrative budget for the California State Lottery Commission for the 2005–06 fiscal year that is included in the Governor’s Budget.	
(c) No later than June 1, 2005, a copy of the proposed administrative budget and expected sales revenue for the California State Lottery Commission for the 2005–06 fiscal year that is submitted to the California State Lottery Commission’s Budget Committee. This report shall detail any administrative funding that is proposed to be used to supplement the prize pool of any lottery game.	

Item	Amount
(d) No later than June 30, 2005, the final 2005–06 budget and revenue projections approved by the California State Lottery Commission. The report shall include any approved revision, and supporting documentation, to the June 1, 2005, proposed budget. The report shall detail any administrative funding that is proposed to be used to supplement the prize pool of any lottery game.	
0855-001-0367—For support of California Gambling Control Commission, payable from the Indian Gaming Special Distribution Fund.....	5,305,000
Schedule:	
(1) 10-California Gambling Control Commission.....	5,305,000
0855-001-0567—For support of California Gambling Control Commission, payable from the Gambling Control Fund.....	2,195,000
Schedule:	
(1) 10-California Gambling Control Commission.....	2,195,000
0855-101-0366—For local assistance, California Gambling Control Commission, payable from the Indian Gaming Revenue Sharing Trust Fund.....	96,500,000
Provisions:	
1. The funds appropriated in this item are for distribution to noncompact tribes pursuant to Section 12012.90 of the Government Code.	
2. Notwithstanding any other provision of law, the Director of Finance may authorize expenditures for purposes of this item in excess of the amount appropriated in this item. The Director of Finance may not approve any expenditure unless the approval is made in writing and filed with the Chairperson of the Joint Legislative Budget Committee and the chairperson of the committee in each house that considers appropriations not later than 30 days prior to the effective date of approval, or prior to whatever lesser time the chairperson of the joint committee, or his or her designee, may determine.	
3. As part of any request to augment this item, the California Gambling Control Commission shall provide the Chairperson of the Joint Legislative Budget Committee and the chairperson of the committee in each house that considers appropriations a report identifying (a) the methodology for	

Item	Amount
determining a noncompact tribe, (b) a list of the noncompact tribes identified based on the commission’s methodology, (c) a trust fund condition report including the amount of revenue received from each compact tribe, and (d) the amount of funds to be distributed to each noncompact tribe. Upon receiving additional expenditure authority for distributing funds under the trust fund, the commission shall submit that information to the chairpersons of the committees on a quarterly basis concurrent with the distribution of the funds to the noncompact tribes.	
0855-101-0367—For local assistance, California Gambling Control Commission, payable from the Indian Gaming Special Distribution Fund	30,000,000
Provisions:	
1. Funds appropriated in this item shall be used to provide grants to local government agencies pursuant to Section 12715 of the Government Code.	
2. Notwithstanding any other provision of law, the Department of Finance may augment the amount available for expenditure in this item, if sufficient funds are available in the Indian Gaming Special Distribution Fund after fulfillment of the provisions of subdivision (g) of Section 12012.85 of the Government Code.	
0855-111-0367—For transfer by the Controller, upon order of the Director of Finance, from the Indian Gaming Special Distribution Fund, to the Indian Gaming Revenue Sharing Trust Fund	(50,500,000)
0860-001-0001—For support of State Board of Equalization	202,222,000
Schedule:	
(1) 100000-Personal Services	255,680,000
(2) 300000-Operating Expenses and Equipment	87,266,000
(3) Reimbursements	-97,479,000
(4) Amount payable from the Breast Cancer Fund (Item 0860-001-0004)	-259,000
(5) Amount payable from the State Emergency Telephone Number Account (Item 0860-001-0022)	-577,000
(6) Amount payable from the Motor Vehicle Fuel Account, Transportation Tax Fund (Item 0860-001-0061)	-19,454,000

Item	Amount
(7) Amount payable from the Occupational Lead Poisoning Prevention Account (Item 0860-001-0070).....	-628,000
(8) Amount payable from the Childhood Lead Poisoning Prevention Fund (Item 0860-001-0080).....	-453,000
(9) Amount payable from the Cigarette and Tobacco Products Surtax Fund (Item 0860-001-0230)	-3,411,000
(10) Amount payable from the Oil Spill Prevention and Administration Fund (Item 0860-001-0320).....	-233,000
(11) Amount payable from the Integrated Waste Management Account, Integrated Waste Management Fund (Item 0860-001-0387).	-407,000
(12) Amount payable from the Underground Storage Tank Cleanup Fund (Item 0860-001-0439).....	-2,019,000
(13) Amount payable from the Energy Resources Programs Account (Item 0860-001-0465)	-235,000
(14) Amount payable from the California Children and Families First Trust Fund (Item 0860-001-0623).	-4,530,000
(15) Amount payable from the Federal Trust Fund (Item 0860-001-0890).	-32,000
(16) Amount payable from the Timber Tax Fund (Item 0860-001-0965)...	-2,017,000
(17) Amount payable from the Gas Consumption Surcharge Fund (Item 0860-001-3015)	-399,000
(18) Amount payable from the Water Rights Fund (Item 0860-001-3058).....	-428,000
(19) Amount payable from the Cigarette and Tobacco Products Compliance Fund (Item 0860-001-3067).....	-8,163,000

Provisions:

1. It is the intent of the Legislature that all funds appropriated to the Board of Equalization for processing tax returns, auditing, and collecting owed tax amounts, shall be used in a manner consistent with its authorized budget and the documents that were presented to the Legislature for its review in support of that budget. The Board of Equalization

Item	Amount
<p>shall not reduce expenditures or redirect either funding or personnel resources away from direct auditing or collection activities without prior approval of the Director of Finance. The director shall not approve any such reduction or redirection sooner than 30 days after providing notification to the Joint Legislative Budget Committee. No such position may be transferred from the organizational unit to which it was assigned in the 2004–05 Governor’s Budget and the Salaries and Wages Supplement as revised by legislative actions without the approval of the Department of Finance. Furthermore, the board shall expeditiously fill budgeted positions consistent with the funding provided in this act.</p> <p>2. Of the amount appropriated in this item, the \$4,904,000 allocated for the Alternative Cigarette Stamp Tax contract shall not be expended until the Department of Finance approves the Special Project Report for the Alternative Cigarette Tax Stamp Project.</p>	
<p>0860-001-0004—For support of State Board of Equalization, for payment to Item 0860-001-0001, payable from the Breast Cancer Fund</p> <p>Provisions:</p> <p>1. Notwithstanding Section 30461.6 of the Revenue and Taxation Code, or any other provision of law, sufficient funds to cover the costs of the State Board of Equalization for the collection and enforcement of fees to be deposited in the Breast Cancer Fund shall be retained in the fund, and be available to be appropriated to the board.</p>	259,000
<p>0860-001-0022—For support of State Board of Equalization, for payment to Item 0860-001-0001, payable from the State Emergency Telephone Number Account.....</p>	577,000
<p>0860-001-0061—For support of State Board of Equalization, for payment to Item 0860-001-0001, payable from the Motor Vehicle Fuel Account, Transportation Tax Fund.....</p>	19,454,000
<p>0860-001-0070—For support of State Board of Equalization, for payment to Item 0860-001-0001, payable from the Occupational Lead Poisoning Prevention Account</p> <p>Provisions:</p> <p>1. The amount appropriated in this item includes revenues derived from the assessment of fines and</p>	628,000

Item	Amount
penalties imposed as specified by Section 13332.18 of the Government Code.	
0860-001-0080—For support of State Board of Equalization, for payment to Item 0860-001-0001, payable from the Childhood Lead Poisoning Prevention Fund	453,000
Provisions:	
1. The amount appropriated in this item includes revenues derived from the assessment of fines and penalties imposed as specified by Section 13332.18 of the Government Code.	
0860-001-0230—For support of State Board of Equalization, for payment to Item 0860-001-0001, payable from the Cigarette and Tobacco Products Surtax Fund	3,411,000
0860-001-0320—For support of State Board of Equalization, for payment to Item 0860-001-0001, payable from the Oil Spill Prevention and Administration Fund	233,000
0860-001-0387—For support of State Board of Equalization, for payment to Item 0860-001-0001, payable from the Integrated Waste Management Account, Integrated Waste Management Fund	407,000
Provisions:	
1. The amount appropriated in this item includes revenues derived from the assessment of fines and penalties imposed as specified by Section 13332.18 of the Government Code.	
0860-001-0439—For support of State Board of Equalization, for payment to Item 0860-001-0001, payable from the Underground Storage Tank Cleanup Fund	2,019,000
Provisions:	
1. The amount appropriated in this item includes revenues derived from the assessment of fines and penalties imposed as specified in Section 13332.18 of the Government Code.	
0860-001-0465—For support of State Board of Equalization, for payment to Item 0860-001-0001, payable from the Energy Resources Programs Account	235,000
0860-001-0623—For support of State Board of Equalization, for payment to Item 0860-001-0001, payable from the California Children and Families First Trust Fund	4,530,000
0860-001-0890—For support of State Board of Equalization, for payment to Item 0860-001-0001, payable from the Federal Trust Fund	32,000

Item	Amount
0860-001-0965—For support of State Board of Equalization, for payment to Item 0860-001-0001, payable from the Timber Tax Fund.....	2,017,000
0860-001-3015—For support of State Board of Equalization, for payment to Item 0860-001-0001, payable from the Gas Consumption Surcharge Fund	399,000
0860-001-3058—For support of State Board of Equalization, for payment to Item 0860-001-0001, payable from the Water Rights Fund.....	428,000
0860-001-3067—For support of State Board of Equalization, for payment to Item 0860-001-0001, payable from the Cigarette and Tobacco Products Compliance Fund	8,163,000
0890-001-0001—For support of Secretary of State.....	18,786,000

Schedule:

- | | |
|--|--------------|
| (1) 100000-Personal Services | 28,589,000 |
| (2) 300000-Operating Expenses and Equipment | 240,818,000 |
| (3) Special Item of Expense-Election Related Costs..... | 8,958,000 |
| (4) Reimbursements..... | -7,339,000 |
| (5) Amount payable from the Secretary of State's Business Fees Fund (Item 0890-001-0228) | -27,140,000 |
| (6) Amount payable from the Federal Trust Fund (Item 0890-001-0890) | -223,500,000 |
| (7) Amount payable from the Victims of Corporate Fraud Compensation Fund (Item 0890-001-3042)..... | -1,600,000 |

Provisions:

1. The Secretary of State may not expend any special handling fees authorized by Chapter 999 of the Statutes of 1999 that are collected in excess of the cost of administering those special handling fees unless specifically authorized by the Legislature.
2. Of the amounts appropriated in this item, \$1,700,000 shall be used for operational costs associated with implementation of the Help America Vote Act.
3. Prior to the expenditure of any other funds in this item, the Secretary of State shall submit a spending plan to the Department of Finance for approval. The spending plan may set out proposed expenditures in whole or in part depending on the

Item	Amount
<p>guidelines issued by the Federal Election Assistance Committee. The spending plan shall include, at a minimum, (a) a detailed description and schedule of proposed expenditures by function and activity, (b) a description and detail of any proposed hiring of state employees or the use of consulting contracts, (c) a timeline for the meeting of federal requirements, and (d) any estimated costs to meet federal requirements which exceed the appropriated funds. It is the intent of the Legislature that the spending plan provide more specific details as to the effective use of the funds than have been previously provided and that the public policy goals behind the spending plan be made explicit. No approval of a spending plan by the Department of Finance shall be effective sooner than 30 days following transmittal of the plan to the Chairperson of the Joint Legislative Budget Committee and the chairperson of the committee in each house that considers election issues, or not sooner than whatever lesser time the chairperson of the joint committee, or his or her designee, may determine.</p> <p>4. No funds in this item shall be spent on a statewide voter data base prior to the Department of Finance's approval of a feasibility study report for the project.</p> <p>5. Upon notification and approval of a spending plan pursuant to Provision 3, the Department of Finance may authorize the transfer of amounts from this item to Item 0890-101-0890 in order to realign the budget in a manner that is consistent with the approved plan.</p>	
0890-001-0228—For support of Secretary of State, for payment to Item 0890-001-0001, payable from the Secretary of State's Business Fees Fund.....	27,140,000
0890-001-0890—For support of Secretary of State, for payment to Item 0890-001-0001, payable from the Federal Trust Fund	223,500,000
0890-001-3042—For support of Secretary of State, for payment to Item 0890-001-0001, payable from the Victims of Corporate Fraud Compensation Fund	1,600,000
0890-003-0001—For support of Secretary of State, for rental payments on lease-revenue bonds	7,930,000
Schedule:	
(1) Base Rental and Fees	9,424,000
(2) Structural Insurance.....	81,000

Item	Amount
(3) Reimbursements	-1,575,000
Provisions:	
1. The Controller shall transfer funds appropriated in this item according to a schedule to be provided by the State Public Works Board. The schedule shall be provided on a monthly basis or as otherwise might be needed to ensure debt requirements are met.	
0890-003-0228—For support of Secretary of State, for rental payments on lease-revenue bonds, payable from the Secretary of State’s Business Fees Fund...	2,504,000
Schedule:	
(1) Base Rental and Fees	2,976,000
(2) Structural Insurance.....	26,000
(3) Reimbursements	-498,000
Provisions:	
1. The Controller shall transfer funds appropriated in this item according to a schedule to be provided by the State Public Works Board. The schedule shall be provided on a monthly basis or as otherwise might be needed to ensure debt requirements are met.	
0890-101-0890—For local assistance, Secretary of State, Help America Vote Act of 2002 (P.L. 107-252)	42,600,000
Provisions:	
1. Prior to the expenditure of any funds appropriated by this item, the Secretary of State shall submit a spending plan to the Department of Finance for approval. The spending plan may set out proposed expenditures in whole or in part depending on the guidelines issued by the Federal Election Assistance Committee. The spending plan shall include, at a minimum, all of the following: (a) a detailed description and schedule of proposed expenditures by function and activity, (b) a description and detail of any proposed hiring of state employees or the use of consulting contracts, (c) a timeline for the meeting of federal requirements, and (d) any estimated costs to meet federal requirements that exceed the appropriated funds. It is the intent of the Legislature that the spending plan provide more specific details as to the effective use of the funds than have been previously provided and that the public policy goals behind the spending plan be made explicit. No approval of a spending plan by the Department of Finance shall be effective sooner than 30 days following	

Item	Amount
transmittal of the plan to the Chairperson of the Joint Legislative Budget Committee and the chairpersons of the committee in each house that considers election issues, or not sooner than whatever lesser time the chairperson of the joint committee, or his or her designee, may determine.	
2. Upon notification and approval of a spending plan pursuant to Provision 1, the Department of Finance may authorize the transfer of amounts from this item to Item 0890-001-0890 in order to realign the budget in a manner that is consistent with the approved plan.	
0890-295-0001—For local assistance, Secretary of State, for reimbursement, in accordance with the provisions of Section 6 of Article XIII B of the California Constitution or Section 17561 of the Government Code, of the costs of any new program or increased level of service of an existing program mandated by statute or executive order, for disbursement by the State Controller	4,000
Schedule:	
(1) 98.01.007.778-Absentee Ballots (Ch. 77, Stats. 1978).....	1,000
(2) 98.01.039.188-Brendon Maguire Act (Ch. 391, Stats. 1988).....	1,000
(3) 98.01.070.475-Voter Registration Procedures (Ch. 704, Stats. 1975).	1,000
(4) 98.01.142.282-Permanent Absent Voters (Ch. 1422, Stats. 1982).....	1,000
(5) 98.01.049.479-Handicapped Voter Access (Ch. 494, Stats. 1979).....	0
(6) 98.01.101.381-Local Elections Consolidation (Ch. 1013, Stats. 1981).....	0
(7) 98.01.104.285-Election Materials (Ch. 1042, Stats. 1985)	0
(8) 98.01.140.176-Voter Registration Roll Purge (Ch. 1401, Stats. 1976).....	0
(9) 98.01.160.382-Democratic Presidential Delegates (Ch. 1603, Stats. 1982).....	0
Provisions:	
1. Except as provided in Provision 2 of this item, allocations of funds provided in this item to the appropriate local entities shall be made by the State Controller in accordance with the provisions of	

Item

Amount

each statute or executive order that mandates the reimbursement of the costs, and shall be audited to verify the actual amount of the mandated costs in accordance with subdivision (d) of Section 17561 of the Government Code. Audit adjustments to prior year claims may be paid from this item. Funds appropriated in this item may be used to provide reimbursement pursuant to Article 5 (commencing with Section 17615) of Chapter 4 of Part 7 of Division 4 of Title 2 of the Government Code.

2. If any of the scheduled amounts are insufficient to provide full reimbursement of costs, the State Controller may, upon notifying the Director of Finance in writing, augment those deficient amounts from the unencumbered balance of any other scheduled amounts therein. No order may be issued pursuant to this provision unless written notification of the necessity therefor is provided to the chairperson of the committee in each house which considers appropriations and the Chairperson of the Joint Legislative Budget Committee or his or her designee.
3. Pursuant to Section 17581 of the Government Code, mandates identified in the appropriation schedule of this item with an appropriation of \$0 and included in the language of this provision are specifically identified by the Legislature for suspension during the 2004–05 fiscal year:
 - (a) Handicapped Voter Access (Ch. 494, Stats. 1979).
 - (b) Local Elections Consolidation (Ch. 1013, Stats. 1981).
 - (c) Election Materials (Ch. 1042, Stats. 1985).
 - (d) Voter Registration Roll Purge (Ch. 1401, Stats. 1976).
 - (e) Democratic Presidential Delegates (Ch. 1603, Stats. 1982).

0950-001-0001—For support of State Treasurer 5,751,000

Schedule:

- | | |
|--|-------------|
| (1) 100000-Personal Services | 16,171,000 |
| (2) 300000-Operating Expenses and
Equipment | 5,437,000 |
| (3) Reimbursements | -15,857,000 |

Provisions:

1. The State Treasurer shall seek to increase the reimbursement rates charged to those departments

Item	Amount
<p>or programs that receive services from the State Treasurer’s office’s Item Processing System by an amount sufficient to recover from those departments or programs, over a five-year period, beginning not later than fiscal year 1999–00, their fair share of the \$3.78 million cost of upgrading the system to be Year 2000 compliant. Those departments or programs include, but are not limited to, the Department of Health Services’ Women, Infant and Children Program, and the Employment Development Department’s Unemployment and Disability Insurance Program.</p>	
0950-295-0001—For local assistance, State Treasurer, for reimbursement, in accordance with the provisions of Section 6 of Article XIII B of the California Constitution or of Section 17561 of the Government Code, of the costs of any new program or increased level of service of an existing program mandated by statute or executive order, for disbursement by the State Controller	0
Schedule:	
(1) 98.01.078.395-Investment Reports— Cities and Counties (Ch. 783, Stats. 1995)	0
(2) 98.01.078.495-County Treasury Oversight Committees (Ch. 784, Stats. 1995 and Ch. 156, Stats. 1996).....	0
Provisions:	
3. Pursuant to Section 17581 of the Government Code, mandates identified in the appropriation schedule of this item with an appropriation of \$0 and included in the language of this provision are specifically identified by the Legislature for suspension during the 2004–05 fiscal year:	
(1) Investment Reports—Cities and Counties (Ch. 783, Stats. 1995).	
(2) County Treasury Oversight Committees (Ch. 784, Stats. 1995 and Ch. 156, Stats. 1996).	
0954-001-0001—For support of the Scholarshare Investment Board	1,082,000
Schedule:	
(1) 20-Governor’s Scholarship Pro- grams	1,082,000
Provisions:	
1. Funds appropriated in this item are for the purpose of administering the Governor’s Scholars	

Item	Amount
<p>Program and the Governor’s Math and Science Scholars Program, established pursuant to Article 20 (commencing with Section 69995) of Chapter 2 of Part 42 of the Education Code.</p> <p>0954-001-0564—For support of the Scholarshare Investment Board, payable from the Scholarshare Administrative Fund</p>	970,000
Schedule:	
<p>(1) 10-Golden State Scholarshare Trust Program.....</p>	970,000
Provisions:	
<p>1. Notwithstanding any other provision of law, the Director of Finance may authorize expenditures for the Scholarshare Investment Board in excess of the amount appropriated not sooner than 30 days after notification in writing of the necessity therefor is provided to the chairpersons of the fiscal committees and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the chairperson of the committee, or his or her designee, may in each instance determine.</p> <p>2. Notwithstanding Provision 1 of Item 7980-011-0001 of Section 2 of Chapter 50 of the Statutes of 1999, the \$829,000 General Fund loan made to the Scholarshare Administrative Fund shall be repaid over a period of seven years, with payments beginning no later than the 2002–03 fiscal year and ending no later than June 30, 2007. This loan shall be repaid with interest calculated at the rate earned by the Pooled Money Investment Account.</p>	
<p>0956-001-0171—For support of California Debt and Investment Advisory Commission, payable from the California Debt and Investment Advisory Commission Fund</p>	1,862,000
Schedule:	
<p>(1) 10-California Debt and Investment Advisory Commission.....</p>	1,962,000
<p>(2) Reimbursements.....</p>	–100,000
Provisions:	
<p>1. Notwithstanding any other provision of law, the Director of Finance may authorize expenditures for the California Debt and Investment Advisory Commission in excess of the amount appropriated not sooner than 30 days after notification in writing of the necessity therefor is provided to the chairpersons of the fiscal committees and the</p>	

Item	Amount
Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the chairperson of the committee, or his or her designee, may in each instance determine.	
0959-001-0169—For support of California Debt Limit Allocation Committee, payable from the California Debt Limit Allocation Committee Fund.....	1,079,000
Schedule:	
(1) 10-Debt Limit Allocation Committee	1,079,000
Provisions:	
1. Notwithstanding any other provision of law, the Director of Finance may authorize expenditures for the California Debt Limit Allocation Committee in excess of the amount appropriated not sooner than 30 days after notification in writing of the necessity therefor is provided to the chairpersons of the fiscal committees and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the chairperson of the committee, or his or her designee, may in each instance determine.	
0959-011-0169—For transfer by the Controller, upon order of the Director of Finance, from the California Debt Limit Allocation Committee Fund to the General Fund.....	(3,500,000)
Provisions:	
1. The transfer made by this item is a loan to the General Fund that shall be fully repaid by October 1, 2006. This loan shall be repaid with interest calculated at the rate earned by the Pooled Money Investment Account at the time of the transfer. The State Controller shall, within 15 working days of receipt of written notification from the Department of Finance, transfer from the General Fund to the California Debt Limit Allocation Committee Fund the full amount of the loan or increments thereof as requested by the Department of Finance. It is the intent of the Legislature that repayment be made so as to ensure that current and newly authorized programs supported by this fund are fully and timely implemented as approved by the voting members of the California Debt Limit Allocation Committee Fund. It is also the intent of the Legislature that repayment be made so as to ensure compliance with federal and state statutes or requirements. Accordingly, the	

Item	Amount
<p>Department of Finance shall, within 30 days of receipt of written notification documenting the need of the loan repayment from the California Debt and Limit Allocation Committee, provide written notification to the State Controller notifying the State Controller of the amount to be transferred from the General Fund to the California Debt Limit Allocation Committee Fund.</p>	
<p>0965-001-0215—For support of California Industrial Development Financing Advisory Commission, payable from the Industrial Development Fund.....</p>	459,000
<p>Schedule:</p>	
<p>(1) 10-Industrial Development Financing Advisory Commission</p>	534,000
<p>(2) Reimbursements</p>	-75,000
<p>Provisions:</p>	
<p>1. Notwithstanding any other provision of law, the Director of Finance may authorize expenditures for the California Industrial Development Financing Advisory Commission in excess of the amount appropriated not sooner than 30 days after notification in writing of the necessity therefor is provided to the chairpersons of the fiscal committees and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the chairperson of the committee, or his or her designee, may in each instance determine.</p>	
<p>0968-001-0448—For support of California Tax Credit Allocation Committee, payable from the Occupancy Compliance Monitoring Account, Tax Credit Allocation Fee Account</p>	1,048,000
<p>Schedule:</p>	
<p>(1) 10-California Tax Credit Allocation Committee</p>	1,063,000
<p>(2) Reimbursements</p>	-15,000
<p>Provisions:</p>	
<p>1. Notwithstanding any other provision of law, the Director of Finance may authorize expenditures for the California Tax Credit Allocation Committee in excess of the amount appropriated not sooner than 30 days after notification in writing of the necessity therefor is provided to the chairpersons of the fiscal committees and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the chairperson of the committee, or his or her designee, may in each instance determine.</p>	

Item	Amount
0968-001-0457—For support of California Tax Credit Allocation Committee, payable from the Tax Credit Allocation Fee Account	1,404,000
Schedule:	
(1) 10-California Tax Credit Allocation Committee	1,419,000
(2) Reimbursements	-15,000
Provisions:	
1. Notwithstanding any other provision of law, the Director of Finance may authorize expenditures for the California Tax Credit Allocation Committee in excess of the amount appropriated not sooner than 30 days after notification in writing of the necessity therefor is provided to the chairpersons of the fiscal committees and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the chairperson of the committee, or his or her designee, may in each instance determine.	
0968-001-3038—For support of California Tax Credit Allocation Committee, payable from the Community Revitalization Fee Fund	249,000
Schedule:	
(1) 20-Community Revitalization Program	249,000
Provisions:	
1. Notwithstanding any other provision of law, the Director of Finance may authorize expenditures for the California Tax Credit Allocation Committee in excess of the amount appropriated not sooner than 30 days after notification in writing of the necessity therefor is provided to the chairpersons of the fiscal committees and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the chairperson of the committee, or his or her designee, may in each instance determine.	
0968-011-0448—For transfer by the Controller, upon order of the Director of Finance, from the Occupancy Compliance Monitoring Account, Tax Credit Allocation Fee Account to the General Fund.....	(35,000,000)
Provisions:	
1. The transfer made by this item is a loan to the General Fund that shall be fully repaid by October 1, 2006. This loan shall be repaid with in-	

Item

Amount

terest calculated at the rate earned by the Pooled Money Investment Account at the time of the transfer. The State Controller shall, within 15 working days of receipt of written notification from the Department of Finance, transfer from the General Fund to the Occupancy Compliance Monitoring Account, Tax Credit Allocation Fee Account the full amount of the loan or increments thereof as requested by the Department of Finance. It is the intent of the Legislature that repayment be made so as to ensure that current and newly authorized programs supported by this account are fully and timely implemented as approved by the voting members of the California Tax Credit Allocation Committee. It is also the intent of the Legislature that repayment be made so as to ensure compliance with federal and state statutes or requirements. Accordingly, the Department of Finance shall, within 30 days of receipt of written notification documenting the need of the loan repayment from the California Tax Credit Allocation Committee, provide written notification to the State Controller notifying the State Controller of the amount to be transferred from the General Fund to the Occupancy Compliance Monitoring Account, Tax Credit Allocation Fee Account.

0968-011-0457—For transfer by the Controller, upon order of the Director of Finance, from the Tax Credit Allocation Fee Account to the General Fund (31,000,000)

Provisions:

1. The transfer made by this item is a loan to the General Fund that shall be fully repaid by October 1, 2006. This loan shall be repaid with interest calculated at the rate earned by the Pooled Money Investment Account at the time of the transfer. The State Controller shall, within 15 working days of receipt of written notification from the Department of Finance, transfer from the General Fund to the Tax Credit Allocation Fee Account the full amount of the loan or increments thereof as requested by the Department of Finance. It is the intent of the Legislature that repayment be made so as to ensure that current and newly authorized programs supported by this account are fully and timely implemented as approved by the voting members of the California

Item	Amount
<p>Tax Credit Allocation Committee. It is also the intent of the Legislature that repayment be made so as to ensure compliance with federal and state statutes or requirements. Accordingly, the Department of Finance shall, within 30 days of receipt of written notification documenting the need of the loan repayment from the California Tax Credit Allocation Committee, provide written notification to the State Controller notifying the State Controller of the amount to be transferred from the General Fund to the Tax Credit Allocation Fee Account.</p>	
<p>0971-001-0528—For support of California Alternative Energy and Advanced Transportation Financing Authority, payable from the California Alternative Energy Authority Fund</p>	198,000
<p>Schedule:</p>	
<p>(1) 10-California Alternative Energy and Advanced Transportation Financing Authority</p>	198,000
<p>Provisions:</p>	
<p>1. Notwithstanding any other provision of law, the Director of Finance may authorize expenditures for the California Alternative Energy and Advanced Transportation Financing Authority in excess of the amount appropriated not sooner than 30 days after notification in writing of the necessity therefor is provided to the chairpersons of the fiscal committees and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the chairperson of the joint committee, or his or her designee, may in each instance determine.</p>	
<p>0985-001-6040—For support of California School Finance Authority, payable from the Charter School Facilities Account, 2002 State School Facilities Fund</p>	615,000
<p>Schedule:</p>	
<p>(1) 20-Charter School Facilities Program.....</p>	615,000
<p>Provisions:</p>	
<p>1. Of the funds appropriated in this item, \$100,000 is for the one-time support of external contracts for consultants who are qualified to provide technical assistance and training in the development of financing programs for charter schools.</p>	

Item	STATE AND CONSUMER SERVICES	Amount
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1100-001-0001—For support of California Science Center		11,489,000
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Schedule:

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|--|------------|--|
| (1) 10-Education..... | 10,833,000 | |
| (2) 20-Exposition Park Management ... | 3,538,000 | |
| (3) 30-California African-American Museum | 1,951,000 | |
| (4) 40.01-Administration..... | 1,176,000 | |
| (5) 40.02-Distributed Administration ... | -1,176,000 | |
| (6) Reimbursements-Education..... | -1,255,000 | |
| (7) Reimbursements-Exposition Park Management | -350,000 | |
| (8) Reimbursements-California African-American Museum | -40,000 | |
| (9) Amount payable from the Exposition Park Improvement Fund (Item 1100-001-0267)..... | -3,188,000 | |

Provisions:

1. The California Science Center shall report to the Legislature by January 15, 2005, on options for charging a fee for admission to the California Science Center Museum.

1100-001-0267—For support of California Science Center, for payment to Item 1100-001-0001, payable from the Exposition Park Improvement Fund		3,188,000
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Provisions:

1. The amount appropriated in this item may include revenues derived from the assessment of fines and penalties imposed as specified in Government Code Section 13332.18.

1100-003-0001—For support of the California Science Center, for rental payments on lease-revenue bonds		2,743,000
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Schedule:

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|--------------------------------|-----------|--|
| (1) Base Rental and Fees | 2,707,000 | |
| (2) Insurance | 40,000 | |
| (3) Reimbursements..... | -4,000 | |

Provisions:

1. The Controller shall transfer funds appropriated in this item according to a schedule to be provided by the State Public Works Board. The schedule shall be provided on a monthly basis or as otherwise might be needed to ensure debt requirements are met.

Item	Amount
1110-001-0024—For support of State Board of Guide Dogs for the Blind, Program 54, payable from the State Board of Guide Dogs for the Blind Fund.....	141,000
Provisions:	
1. The amount appropriated in this item may include revenues derived from the assessment of fines and penalties imposed as specified in Section 13332.18 of the Government Code.	
1110-001-0069—For support of the State Board of Barbering and Cosmetology, payable from the Barbering and Cosmetology Fund	12,444,000
Schedule:	
(1) 22-Board of Barbering and Cosmetology	12,501,000
(2) Reimbursements	-57,000
Provisions:	
1. The amount appropriated in this item may include revenues derived from the assessment of fines and penalties imposed as specified in Section 13332.18 of the Government Code.	
1110-001-0093—For support of Contractors’ State License Board, for payment to Item 1110-001-0735, payable from the Construction Management Education Account.....	15,000
Provisions:	
1. The amount appropriated in this item may include revenues derived from the assessment of fines and penalties imposed as specified in Section 13332.18 of the Government Code.	
1110-001-0108—For support of Acupuncture Board, payable from the Acupuncture Fund.....	2,161,000
Schedule:	
(1) 56-Acupuncture Board	2,184,000
(2) Reimbursements	-23,000
Provisions:	
1. The amount appropriated in this item may include revenues derived from the assessment of fines and penalties imposed as specified in Section 13332.18 of the Government Code.	
1110-001-0175—For support of Medical Board of California, Registered Dispensing Opticians, for payment to Item 1110-001-0758, payable from the Dispensing Opticians Fund	244,000
Provisions:	
1. The amount appropriated in this item may include revenues derived from the assessment of fines and	

Item	Amount
penalties imposed as specified in Section 13332.18 of the Government Code.	
1110-001-0205—For support of Board for Geologists and Geophysicists, Program 51, payable from the Geology and Geophysics Fund.....	750,000
Provisions:	
1. The amount appropriated in this item may include revenues derived from the assessment of fines and penalties imposed as specified in Section 13332.18 of the Government Code.	
1110-001-0210—For support of Medical Board of California, Outpatient Setting, for payment to Item 1110-001-0758, payable from the Outpatient Setting Fund of the Medical Board of California	23,000
Provisions:	
1. The amount appropriated in this item may include revenues derived from the assessment of fines and penalties imposed as specified in Section 13332.18 of the Government Code.	
1110-001-0264—For support of Osteopathic Medical Board of California, payable from the Osteopathic Medical Board of California Contingent Fund	1,013,000
Schedule:	
(1) 70-Osteopathic Medical Board of California	1,063,000
(2) Reimbursements.....	-50,000
Provisions:	
1. The amount appropriated in this item may include revenues derived from the assessment of fines and penalties imposed as specified in Government Code Section 13332.18.	
1110-001-0280—For support of Physician Assistant Committee, payable from the Physician Assistant Fund	853,000
Schedule:	
(1) 59-Physician Assistant Committee .	878,000
(2) Reimbursements.....	-25,000
Provisions:	
1. The amount appropriated in this item may include revenues derived from the assessment of fines and penalties imposed as specified in Section 13332.18 of the Government Code.	
1110-001-0295—For support of California Board of Podiatric Medicine, payable from the Board of Podiatric Medicine Fund	1,071,000

Item	Amount
Schedule:	
(1) 61-California Board of Podiatric Medicine	1,075,000
(2) Reimbursements	-4,000
Provisions:	
1. The amount appropriated in this item may include revenues derived from the assessment of fines and penalties imposed as specified in Section 13332.18 of the Government Code.	
1110-001-0310—For support of Board of Psychology, payable from the Psychology Fund	2,787,000
Schedule:	
(1) 62-Board of Psychology	2,838,000
(2) Reimbursements	-51,000
Provisions:	
1. The amount appropriated in this item may include revenues derived from the assessment of fines and penalties imposed as specified in Section 13332.18 of the Government Code.	
1110-001-0319—For support of Respiratory Care Board of California, payable from the Respiratory Care Fund	2,422,000
Schedule:	
(1) 64-Respiratory Care Board of Cali- fornia	2,488,000
(2) Reimbursements	-66,000
Provisions:	
1. The amount appropriated in this item may include revenues derived from the assessment of fines and penalties imposed as specified in Section 13332.18 of the Government Code.	
1110-001-0326—For support of State Athletic Commis- sion	717,000
Schedule:	
(1) 9-State Athletic Commission.....	910,000
(2) Amount payable from the Boxer’s Pension Fund (Item 1110-002- 9250).....	-90,000
(3) Amount payable from the Boxer’s Neurological Examination Ac- count (Item 1110-001-0492).....	-103,000
Provisions:	
1. The amount appropriated in this item may include revenues derived from the assessment of fines and penalties imposed as specified in Section 13332.18 of the Government Code.	

Item	Amount
2. Notwithstanding Section 14.00 of this act, the Director of Finance may authorize a loan of up to \$320,000 from the Vehicle Inspection and Repair Fund to the State Athletic Commission. This loan shall be repaid by June 30, 2007.	
1110-001-0376—For support of the Speech-Language Pathology and Audiology Board, payable from the Speech-Language Pathology and Audiology Fund... Schedule:	519,000
(1) 65-Speech-Language Pathology and Audiology Board	543,000
(2) Reimbursements	-24,000
Provisions:	
1. The amount appropriated in this item may include revenues derived from the assessment of fines and penalties imposed as specified in Section 13332.18 of the Government Code.	
1110-001-0380—For support of the Committee on Dental Auxiliaries, Board of Dentistry, payable from the State Dental Auxiliary Fund..... Schedule:	1,524,000
(1) 36.20-Committee on Dental Auxiliaries	1,746,000
(2) Reimbursements	-222,000
Provisions:	
1. The amount appropriated in this item may include revenues derived from the assessment of fines and penalties imposed as specified in Section 13332.18 of the Government Code.	
1110-001-0399—For support of Structural Pest Control Board, for payment to Item 1110-001-0775, payable from the Structural Pest Control Education and Enforcement Fund	277,000
Provisions:	
1. The amount appropriated in this item may include revenues derived from the assessment of fines and penalties imposed as specified in Section 13332.18 of the Government Code.	
1110-001-0492—For support of State Athletic Commission, for payment to Item 1110-001-0326, payable from the Boxer’s Neurological Examination Account	103,000
Provisions:	
1. The amount appropriated in this item may include revenues derived from the assessment of fines and penalties imposed as specified in Section 13332.18 of the Government Code.	

Item	Amount
1110-001-0704—For support of California Board of Accountancy, payable from the Accountancy Fund, Professions and Vocations Fund	8,879,000
Schedule:	
(1) 3-California Board of Accountancy. 9,083,000	
(2) Reimbursements	-204,000
Provisions:	
1. The amount appropriated in this item may include revenues derived from the assessment of fines and penalties imposed as specified in Section 13332.18 of the Government Code.	
1110-001-0706—For support of California Architects Board, payable from the California Architects Board Fund	2,731,000
Schedule:	
(1) 06.10.010-California Architects Board	2,762,000
(2) 06.10.020-Distributed Cost-Architects/Landscape Architects ...	-26,000
(3) Reimbursements	-5,000
Provisions:	
1. The amount appropriated in this item may include revenues derived from the assessment of fines and penalties imposed as specified in Section 13332.18 of the Government Code.	
1110-001-0735—For support of Contractors’ State License Board, payable from the Contractors’ License Fund	46,755,000
Schedule:	
(1) 30-Contractors’ State License Board	47,123,000
(2) Reimbursements	-353,000
(3) Amount payable from the Construction Management Education Account (Item 1110-001-0093)	-15,000
Provisions:	
1. The amount appropriated in this item may include revenues derived from the assessment of fines and penalties imposed as specified in Section 13332.18 of the Government Code.	
1110-001-0741—For support of Dental Board of California, Board of Dentistry, payable from the State Dentistry Fund.....	7,012,000
Schedule:	
(1) 36.10-Dental Board of California...	7,182,000
(2) Reimbursements	-170,000

Item	Amount
Provisions:	
1. The amount appropriated in this item may include revenues derived from the assessment of fines and penalties imposed as specified in Section 13332.18 of the Government Code.	
1110-001-0757—For support of California Architects Board, Landscape Architect Technical Committee, Program 06.20, payable from California Architects Board Fund-Landscape Architects Fund	881,000
Provisions:	
1. The amount appropriated in this item may include revenues derived from the assessment of fines and penalties imposed as specified in Section 13332.18 of the Government Code.	
1110-001-0758—For support of Medical Board of California, payable from the Contingent Fund of the Medical Board of California	39,203,000
Schedule:	
(1) 55.10.010-Medical Board of California	40,300,000
(2) 55.15-Registered Dispensing Opticians.....	244,000
(3) 55.17-Outpatient Setting	23,000
(4) 55.10.020-Distributed Medical Board of California	-713,000
(5) Reimbursements	-384,000
(6) Amount payable from the Dispensing Opticians Fund (Item 1110-001-0175)	-244,000
(7) Amount payable from the Outpatient Setting Fund of the Medical Board of California (Item 1110-001-0210)	-23,000
Provisions:	
1. The amount appropriated in this item may include revenues derived from the assessment of fines and penalties imposed as specified in Section 13332.18 of the Government Code.	
1110-001-0759—For support of Physical Therapy Board of California, payable from the Physical Therapy Fund	2,244,000
Schedule:	
(1) 58-Physical Therapy Board of California	2,343,000
(2) Reimbursements	-99,000

Item	Amount
Provisions:	
1. The amount appropriated in this item may include revenues derived from the assessment of fines and penalties imposed as specified in Section 13332.18 of the Government Code.	
1110-001-0761—For support of Board of Registered Nursing, payable from the Board of Registered Nursing Fund, Professions and Vocations Fund.....	17,103,000
Schedule:	
(1) 78-Board of Registered Nursing	18,117,000
(2) Reimbursements.....	-1,014,000
Provisions:	
1. The amount appropriated in this item may include revenues derived from the assessment of fines and penalties imposed as specified in Section 13332.18 of the Government Code.	
1110-001-0763—For support of State Board of Optometry, payable from the State Optometry Fund, Professions and Vocations Fund	1,310,000
Schedule:	
(1) 69-State Board of Optometry.....	1,316,000
(2) Reimbursements.....	-6,000
Provisions:	
1. The amount appropriated in this item may include revenues derived from the assessment of fines and penalties imposed as specified in Section 13332.18 of the Government Code.	
1110-001-0767—For support of California State Board of Pharmacy, payable from the Pharmacy Board Contingent Fund, Professions and Vocations Fund..	7,360,000
Schedule:	
(1) 72-California State Board of Pharmacy	7,611,000
(2) Reimbursements.....	-251,000
Provisions:	
1. The amount appropriated in this item may include revenues derived from the assessment of fines and penalties imposed as specified in Section 13332.18 of the Government Code.	
1110-001-0770—For support of Board for Professional Engineers and Land Surveyors, payable from the Professional Engineers' and Land Surveyors' Fund.	7,339,000
Schedule:	
(1) 75-Board for Professional Engineers and Land Surveyors	7,355,000
(2) Reimbursements.....	-16,000

Item	Amount
Provisions:	
1. The amount appropriated in this item may include revenues derived from the assessment of fines and penalties imposed as specified in Section 13332.18 of the Government Code.	
1110-001-0771—For support of Court Reporters Board of California, payable from the Court Reporters Fund	627,000
Schedule:	
(1) 81-Court Reporters Board of California	645,000
(2) Reimbursements.....	-18,000
Provisions:	
1. The amount appropriated in this item may include revenues derived from the assessment of fines and penalties imposed as specified in Section 13332.18 of the Government Code.	
1110-001-0773—For support of Board of Behavioral Science, payable from the Behavioral Science Examiners Fund, Professions and Vocations Fund.....	4,582,000
Schedule:	
(1) 18-Board of Behavioral Science	4,758,000
(2) Reimbursements.....	-176,000
Provisions:	
1. The amount appropriated in this item may include revenues derived from the assessment of fines and penalties imposed as specified in Section 13332.18 of the Government Code.	
1110-001-0775—For support of Structural Pest Control Board, payable from the Structural Pest Control Fund, Professions and Vocations Fund.....	3,351,000
Schedule:	
(1) 84-Structural Pest Control Board ...	3,630,000
(2) Reimbursements.....	-2,000
(3) Amount payable from the Structural Pest Control Education and Enforcement Fund (Item 1110-001-0399).....	-277,000
Provisions:	
1. The amount appropriated in this item may include revenues derived from the assessment of fines and penalties imposed as specified in Section 13332.18 of the Government Code.	
1110-001-0777—For support of Veterinary Medical Board, payable from the Veterinary Medical Board Contingent Fund.....	1,570,000

Item	Amount
Schedule:	
(1) 90-Veterinary Medical Board.....	1,596,000
(2) Reimbursements	-26,000
Provisions:	
1. The amount appropriated in this item may include revenues derived from the assessment of fines and penalties imposed as specified in Section 13332.18 of the Government Code.	
1110-001-0779—For support of Board of Vocational Nurse and Psychiatric Technician Examiners, payable from the Vocational Nurse Examiners Fund	5,024,000
Schedule:	
(1) 91.10.010-Vocational Nurses Program.....	5,413,000
(2) 91.10.020-Distributed Vocational Nurses	-37,000
(3) Reimbursements	-352,000
Provisions:	
1. The amount appropriated in this item may include revenues derived from the assessment of fines and penalties imposed as specified in Section 13332.18 of the Government Code.	
1110-001-0780—For support of Board of Vocational Nurse and Psychiatric Technician Examiners, payable from the Psychiatric Technicians Account, Vocational Nurse and Psychiatric Technician Examiners Fund	1,119,000
Schedule:	
(1) 91.20-Psychiatric Technician Program.....	1,141,000
(2) Reimbursements	-22,000
Provisions:	
1. The amount appropriated in this item may include revenues derived from the assessment of fines and penalties imposed as specified in Section 13332.18 of the Government Code.	
1110-001-3017—For support of California Board of Occupational Therapy, payable from the Occupational Therapy Fund	675,000
Schedule:	
(1) 67-California Board of Occupational Therapy.....	697,000
(2) Reimbursements	-22,000
Provisions:	
1. The amount appropriated in this item may include revenues derived from the assessment of fines and	

Item	Amount
penalties imposed as specified in Section 13332.18 of the Government Code.	
1110-002-9250—For support of State Athletic Commission, for payment to Item 1110-001-0326, payable from the Boxer’s Pension Fund.....	90,000
Provisions:	
1. The amount appropriated in this item may include revenues derived from the assessment of fines and penalties imposed as specified in Section 13332.18 of the Government Code.	
1110-101-0093—For local assistance, Contractors’ State License Board, Department of Consumer Affairs, payable from the Construction Management Education Account.....	239,000
1111-002-0166—For support of the Arbitration Certification Program, Department of Consumer Affairs, payable from the Consumer Affairs-Certification Account.....	870,000
Schedule:	
(1) 23-Arbitration Certification Program.....	870,000
Provisions:	
1. The amount appropriated in this item may include revenues derived from the assessment of fines and penalties imposed as specified in Section 13332.18 of the Government Code.	
1111-002-0208—For support of the Hearing Aid Dispensers Bureau, Department of Consumer Affairs, payable from the Hearing Aid Dispensers Fund.....	638,000
Schedule:	
(1) 24-Hearing Aid Dispensers Bureau.	647,000
(2) Reimbursements.....	–9,000
Provisions:	
1. The amount appropriated in this item may include revenues derived from the assessment of fines and penalties imposed as specified in Section 13332.18 of the Government Code.	
1111-002-0239—For support of the Bureau of Security and Investigative Services, Department of Consumer Affairs, payable from the Private Security Services Fund	6,781,000
Schedule:	
(1) 25.10.010-Bureau of Security and Investigative Services, Private Security Services Program	9,235,000
(2) 25.10.020-Distributed Private Security Services.....	–104,000

Item	Amount
(3) Reimbursements	-2,350,000
Provisions:	
1. The amount appropriated in this item may include revenues derived from the assessment of fines and penalties imposed as specified in Section 13332.18 of the Government Code.	
1111-002-0305—For support of the Bureau for Private Postsecondary and Vocational Education, Department of Consumer Affairs, payable from the Private Postsecondary Education Administration Fund.....	5,632,000
Schedule:	
(1) 27.10.010-Bureau for Private Postsecondary and Vocational Education.....	5,822,000
(2) 27.10.020-Distributed Private Postsecondary and Vocational Education.....	-110,000
(3) Reimbursements.....	-80,000
Provisions:	
1. The amount appropriated in this item may include revenues derived from the assessment of fines and penalties imposed as specified in Section 13332.18 of the Government Code.	
1111-002-0325—For support of the Bureau of Electronic and Appliance Repair, Department of Consumer Affairs, payable from the Electronic and Appliance Repair Fund	1,913,000
Schedule:	
(1) 28-Bureau of Electronic and Appliance Repair.....	1,926,000
(2) Reimbursements.....	-13,000
Provisions:	
1. The amount appropriated in this item may include revenues derived from the assessment of fines and penalties imposed as specified in Section 13332.18 of the Government Code.	
1111-002-0421—For support of the Bureau of Automotive Repair, Department of Consumer Affairs, payable from the Vehicle Inspection and Repair Fund..	93,996,000
Schedule:	
(1) 31.10.016-Automotive Repair and Smog Check Programs.....	76,151,000
(2) 31.10.026-Consumer Relations and Outreach.....	5,931,000
(3) 31.10.036-Communications and Education	584,000

Item	Amount
(4) 31.10.046-Administrative and Information Services	11,519,000
(5) 31.10.090-Distributed Automotive Repair and Smog Check Programs	-71,000
(6) Reimbursements	-118,000
Provisions:	
1. The amount appropriated in this item may include revenues derived from the assessment of fines and penalties imposed as specified in Section 13332.18 of the Government Code.	
2. Notwithstanding Section 26.00 of this act, the Department of Finance may authorize transfers among and between Schedules (1), (2), (3), and (4) of this item not to exceed 35 percent of the schedule from which funds are transferred. Transfers made by this provision may be authorized not sooner than 30 days after notification in writing of the necessity therefor is provided to the chairperson of the committee in each house of the Legislature that considers appropriations and the Chairperson of the Joint Legislative Budget Committee.	
1111-002-0459—For support of the Telephone Medical Advice Services Program, Department of Consumer Affairs, payable from the Telephone Medical Advice Services Fund.....	128,000
Schedule:	
(1) 37-Telephone Medical Advice Services Program	128,000
Provisions:	
1. The amount appropriated in this item may include revenues derived from the assessment of fines and penalties imposed as specified in Section 13332.18 of the Government Code.	
1111-002-0582—For support of the Bureau of Automotive Repair, Department of Consumer Affairs, payable from the High Polluter Repair or Removal Account.....	20,833,000
Schedule:	
(1) 31.20.016-Vehicle Repair Assistance.....	12,000,000
(2) 31.20.030-Vehicle Retirement	4,525,000
(3) 31.20.040-Program Administration.	4,308,000
Provisions:	
1. The amount appropriated in this item may include revenues derived from the assessment of fines and	

Item	Amount
penalties imposed as specified in Section 13332.18 of the Government Code.	
2. Notwithstanding Section 26.00 of this act, the Department of Finance may authorize transfers among and between Schedules (1) and (2) of this item. Transfers made by this provision may be authorized not sooner than 30 days after notification in writing of the necessity therefor is provided to the chairperson of the committee in each house of the Legislature that considers appropriations and the Chairperson of the Joint Legislative Budget Committee.	
1111-002-0702—For support of Department of Consumer Affairs, payable from the Consumer Affairs Fund, Professions and Vocations Fund.....	0
Schedule:	
(1) 35.10.010-Administrative and Information Services Division	36,153,000
(2) 35.10.015-Communications and Education Division.....	1,323,000
(3) 35.10.020-Consumer Relations and Outreach Division.....	9,332,000
(4) 35.10.025-Division of Investigation	6,839,000
(5) 35.20.010-Distributed Administrative and Information Services Division	-35,578,000
(6) 35.20.015-Distributed Communications and Education Division.....	-1,267,000
(7) 35.20.020-Distributed Consumer Relations and Outreach Division ..	-9,332,000
(8) 35.20.025-Distributed Division of Investigation	-6,583,000
(9) Reimbursements.....	-887,000
Provisions:	
1. The amount appropriated in this item may include revenues derived from the assessment of fines and penalties imposed as specified in Section 13332.18 of the Government Code.	
1111-002-0717—For support of the Cemetery and Funeral Bureau, Department of Consumer Affairs, payable from the Cemetery Fund, Professions and Vocations Fund.....	1,980,000
Schedule:	
(1) 38.10.005-Cemetery Program	2,214,000
(2) 38.10.010-Distributed Cemetery Program.....	-115,000

Item	Amount
(3) Reimbursements.....	-119,000
Provisions:	
1. The amount appropriated in this item may include revenues derived from the assessment of fines and penalties imposed as specified in Section 13332.18 of the Government Code.	
1111-002-0750—For support of the Cemetery and Funeral Bureau, Department of Consumer Affairs, payable from the State Funeral Directors and Embalmers Fund, Professions and Vocations Fund.....	1,505,000
Schedule:	
(1) 38.20-Funeral Directors and Embalmers Program.....	1,517,000
(2) Reimbursements.....	-12,000
Provisions:	
1. The amount appropriated in this item may include revenues derived from the assessment of fines and penalties imposed as specified in Section 13332.18 of the Government Code.	
1111-002-0752—For support of the Bureau of Home Furnishings and Thermal Insulation, Department of Consumer Affairs, payable from the Bureau of Home Furnishings and Thermal Insulation Fund.....	3,641,000
Schedule:	
(1) 34-Bureau of Home Furnishings and Thermal Insulation	3,646,000
(2) Reimbursements.....	-5,000
Provisions:	
1. The amount appropriated in this item may include revenues derived from the assessment of fines and penalties imposed as specified in Section 13332.18 of the Government Code.	
1111-002-0769—For support of the Bureau of Security and Investigative Services, Department of Consumer Affairs, payable from the Private Investigator Fund	606,000
Schedule:	
(1) 25.20-Private Investigators Program.....	716,000
(2) Reimbursements.....	-110,000
Provisions:	
1. The amount appropriated in this item may include revenues derived from the assessment of fines and penalties imposed as specified in Section 13332.18 of the Government Code.	

Item	Amount
1111-002-0890—For support of the Bureau for Private Postsecondary and Vocational Education, Department of Consumer Affairs, payable from the Federal Trust Fund.....	1,145,000
Schedule:	
(1) 27.20-Federal Trust Program	1,145,000
Provisions:	
1. Notwithstanding any other provision of law, the Federal Trust Fund Account of the Bureau for Private Postsecondary and Vocational Education may borrow from the Private Postsecondary and Vocational Education Administration Fund an amount not to exceed a cumulative total of \$500,000 for the purpose of meeting cashflow needs for the purposes funded in this item due to delays in collecting federal funds. Any loan made pursuant to this provision shall be made only upon approval of the Department of Finance, and only if the bureau demonstrates and certifies that a sufficient surplus exists in the Private Postsecondary and Vocational Education Administration Fund to support the amount of the loan, and that funds will be available from the federal government to repay the loan. All moneys transferred shall be repaid to the fund as soon as possible, but not later than one year from the date of the loan.	
1111-002-0960—For support of the Bureau for Private Postsecondary and Vocational Education, Department of Consumer Affairs, payable from the Student Tuition Recovery Fund	110,000
Schedule:	
(1) 27.30-Student Tuition Recovery Program.....	110,000
Provisions:	
1. The amount appropriated in this item may include revenues derived from the assessment of fines and penalties imposed as specified in Section 13332.18 of the Government Code.	
1111-002-3069—For support of the Bureau of Naturopathic Medicine, Department of Consumer Affairs, payable from the Naturopathic Doctor’s Fund	90,000
Schedule:	
(1) 39-Bureau of Naturopathic Medicine	93,000
(2) Reimbursements.....	-3,000

Item	Amount
1111-003-0001—For support of the Office of Privacy Protection, Department of Consumer Affairs	450,000
Schedule:	
(1) 40-Office of Privacy Protection	485,000
(2) Reimbursements	-35,000
1700-001-0001—For support of Department of Fair Employment and Housing	13,275,000
Schedule:	
(1) 50-Administration of Civil Rights Law	18,471,000
(2) Amount payable from the Federal Trust Fund (Item 1700-001-0890).	-5,196,000
1700-001-0890—For support of Department of Fair Employment and Housing, for payment to Item 1700-001-0001, payable from the Federal Trust Fund.....	5,196,000
1705-001-0001—For support of the Fair Employment and Housing Commission	1,091,000
Schedule:	
(1) 10-Fair Employment and Housing Commission.....	1,242,000
(2) Reimbursements	-151,000
1730-001-0001—For support of Franchise Tax Board ...	466,051,000
Schedule:	
(1) 10-Tax Programs	403,512,000
(2) 20-Homeowners and Renters Assistance.....	5,497,000
(3) 30-Political Reform Audit (1,422,000)	0
(4) 40-Child Support Collections.....	15,905,000
(5) 45-Child Support Automation	153,281,000
(6) 50-DMV Collections	5,401,000
(7) 60-Court Collections	5,601,000
(8) 70-Contract Work.....	7,257,000
(9) 80.01-Administration.....	23,051,000
(10) 80.02-Distributed Administration.....	-23,051,000
(11) Reimbursements	-8,257,000
(12) Reimbursements-Child Support Existing/Expanded Collections	-10,699,000
(13) Reimbursements-Child Support Automation.....	-99,959,000
(14) Amount payable from the State Highway Account, State Transportation Fund (Item 1730-001-0042).	-1,000
(15) Amount payable from the Motor Vehicle Account, State Transportation Fund (Item 1730-001-0044)... ..	-1,869,000

Item	Amount
(16) Amount payable from the Motor Vehicle License Fee Account, Transportation Tax Fund (Item 1730-001-0064)	-3,531,000
(17) Amount payable from the Emergency Food Assistance Program Fund (Item 1730-001-0122).....	-6,000
(18) Amount payable from the Delinquent Tax Collection Fund (Section 19378 of the Revenue and Taxation Code)	-404,000
(19) Amount payable from the Fish and Game Preservation Fund (Rare Fish, Wildlife, and Plant Species Conservation and Enhancement Account) (Item 1730-001-0200) ...	-13,000
(20) Amount payable from the Court Collection Account (Item 1730-001-0242)	-5,601,000
(21) Amount payable from the State Children's Trust Fund (Item 1730-001-0803)	-11,000
(22) Amount payable from the California Alzheimer's Disease and Related Disorders Research Fund (Item 1730-001-0823)	-11,000
(23) Amount payable from the California Seniors Special Fund (Item 1730-001-0886)	-4,000
(24) Amount payable from the California Breast Cancer Research Fund (Item 1730-001-0945)	-7,000
(25) Amount payable from the California Peace Officer Memorial Foundation Fund (Item 1730-001-0974).....	-5,000
(26) Amount payable from the Firefighters' Memorial Fund (Item 1730-001-0979)	-7,000
(27) Amount payable from the California Fund for Senior Citizens (Item 1730-001-0983)	-7,000
(29) Amount payable from the Asthma and Lung Disease Research Fund (Item 1730-001-8003)	-5,000

Item	Amount
(30) Amount payable from the California Missions Foundation Fund (Item 1730-001-8017)	-6,000

Provisions:

1. It is the intent of the Legislature that all funds appropriated to the Franchise Tax Board for processing tax returns, auditing and collecting owed tax amounts, shall be used in a manner consistent with its authorized budget and the documents that were presented to the Legislature for its review in support of that budget. The Franchise Tax Board shall not reduce expenditures or redirect either funding or personnel resources away from direct auditing or collection activities without prior approval of the Director of Finance. The director shall not approve any such reduction or redirection sooner than 30 days after providing notification to the Joint Legislative Budget Committee. No such position may be transferred from the organizational unit to which it was assigned in the 2004–05 Governor’s Budget and the Salaries and Wages Supplement as revised by legislative actions without the approval of the Department of Finance. Furthermore, the board shall expeditiously fill budgeted positions consistent with the funding provided in this act.
2. It is the intent of the Legislature that the Franchise Tax Board resolve tax controversies, without litigation, on a basis that is fair to both the state and the taxpayer and in a manner that will enhance voluntary compliance and public confidence in the integrity and efficiency of the board.
3. During the 2004–05 fiscal year, the collection cost recovery fee for purposes of subparagraph (A) of paragraph (1) of subdivision (a) of Section 19254 of the Revenue and Taxation Code shall be \$101, and the filing enforcement cost recovery fee for purposes of subparagraph (A) of paragraph (2) of that subdivision shall be \$90.
4. During the 2004–05 fiscal year, the collection cost recovery fee for purposes of subparagraph (B) of paragraph (1) of subdivision (a) of Section 19254 of the Revenue and Taxation Code shall be \$150, and the filing enforcement cost recovery fee for purposes of subparagraph (B) of paragraph (2) of that subdivision shall be \$129.

Item	Amount
5. Of the amounts appropriated in this item, the amounts provided in Schedule (5) and Schedule (13), Reimbursements—Child Support Automation, are, pursuant to Section 5 of Chapter 479 of the Statutes of 1999, available for the 2004–05 and 2005–06 fiscal years.	
6. It is the intent of the Legislature that the California Child Support Automation System project shall receive the highest commitment and priority of all of the state’s child support automation activities.	
7. The Legislature intends that the California Child Support Automation System project shall support all child support collections activities in compliance with federal certification requirements.	
8. Notwithstanding any other provision of law, upon request of the Franchise Tax Board, the Department of Finance may augment the amount available for expenditure in this item to pay for start-up costs for the State Disbursement Unit component of the California Child Support Automation System project. The augmentation may be made no sooner than 30 days after notification in writing of the necessity therefor to the chairperson of the committee in each house of the Legislature that considers appropriations and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the chairperson of the joint committee, or his or her designee, may in each instance determine. The amount of funds augmented pursuant to the authority of this provision shall be consistent with the amount approved by the Department of Finance based on its review and approval of the required Feasibility Study Report, Special Project Reports, or equivalent documents.	
1730-001-0042—For support of Franchise Tax Board, for payment to Item 1730-001-0001, payable from the State Highway Account, State Transportation Fund	1,000
1730-001-0044—For support of Franchise Tax Board, for payment to Item 1730-001-0001, payable from the Motor Vehicle Account, State Transportation Fund	1,869,000

Item	Amount
1730-001-0064—For support of Franchise Tax Board, for payment to Item 1730-001-0001, payable from the Motor Vehicle License Fee Account, Transportation Tax Fund.....	3,531,000
1730-001-0122—For support of Franchise Tax Board, for payment to Item 1730-001-0001, payable from the Emergency Food Assistance Program Fund	6,000
1730-001-0200—For support of Franchise Tax Board, for payment to Item 1730-001-0001, payable from the Fish and Game Preservation Fund (Rare Fish, Wildlife, and Plant Species Conservation and Enhancement Account).....	13,000
1730-001-0242—For support of Franchise Tax Board, for payment to Item 1730-001-0001, payable from the Court Collection Account.....	5,601,000
1730-001-0803—For support of Franchise Tax Board, for payment to Item 1730-001-0001, payable from the State Children’s Trust Fund.....	11,000
1730-001-0823—For support of Franchise Tax Board, for payment to Item 1730-001-0001, payable from the California Alzheimer’s Disease and Related Disorders Research Fund	11,000
1730-001-0886—For support of Franchise Tax Board, for payment to Item 1730-001-0001, payable from the California Seniors Special Fund	4,000
1730-001-0945—For support of Franchise Tax Board, for payment to Item 1730-001-0001, payable from the California Breast Cancer Research Fund	7,000
1730-001-0974—For support of Franchise Tax Board, for payment to Item 1730-001-0001, payable from the California Peace Officer Memorial Foundation Fund	5,000
1730-001-0979—For support of Franchise Tax Board, for payment to Item 1730-001-0001, payable from the Firefighters’ Memorial Fund	7,000
1730-001-0983—For support of Franchise Tax Board, for payment to Item 1730-001-0001, payable from the California Fund for Senior Citizens.....	7,000
1730-001-8003—For support of Franchise Tax Board, for payment to Item 1730-001-0001, payable from the Asthma and Lung Disease Research Fund.....	5,000
1730-001-8017—For support of Franchise Tax Board, for payment to Item 1730-001-0001, payable from the California Missions Foundation Fund.....	6,000
1730-002-0001—For support of Franchise Tax Board, for rental payments on lease-revenue bonds	7,363,000

Item	Amount
Schedule:	
(1) Central Office—Buildings 1 and 2.	7,278,000
(2) Insurance	130,000
(3) Reimbursements	-45,000
Provisions:	
1. The Controller shall transfer funds appropriated in this item according to a schedule to be provided by the State Public Works Board. The schedule shall be provided on a monthly basis or as otherwise might be needed to ensure debt requirements are met.	
1730-295-0001—For local assistance, Franchise Tax Board, for reimbursement, in accordance with the provisions of Section 6 of Article XIII B of the California Constitution or Section 17561 of the Government Code, of the costs of any new program or increased level of service of an existing program mandated by statute or executive order, for disbursement by the State Controller	0
Schedule:	
(1) 98.01.023.874-Substandard Housing (Ch. 238, Stats. 1974)	0
Provisions:	
1. Pursuant to Section 17581 of the Government Code, mandates identified in the appropriation schedule of this item with an appropriation of \$0 and included in the language of this provision are specifically identified by the Legislature for suspension during the 2004–05 fiscal year:	
(1) Substandard Housing (Ch. 238, Stats. 1974).	
1760-001-0001—For support of Department of General Services, for payment to Item 1760-001-0666	7,000,000
1760-001-0002—For support of Department of General Services, for payment to Item 1760-001-0666, payable from the Property Acquisition Law Money Account.....	2,824,000
1760-001-0003—For support of Department of General Services, for payment to Item 1760-001-0666, payable from the Motor Vehicle Parking Facilities Monies Account.....	3,991,000
1760-001-0022—For support of Department of General Services, for payment to Item 1760-001-0666, payable from the State Emergency Telephone Number Account	4,939,000

Item	Amount
1760-001-0026—For support of Department of General Services, for payment to Item 1760-001-0666, payable from the State Motor Vehicle Insurance Account.....	3,996,000
Provisions:	
1. Notwithstanding any other provision of law, Section 16379 of the Government Code shall govern the payment of claims for the purposes of this item.	
1760-001-0450—For support of Department of General Services, for payment to Item 1760-001-0666, payable from the Seismic Gas Valve Certification Fee Account	75,000
1760-001-0465—For support of Department of General Services, for payment to Item 1760-001-0666, payable from the Energy Resources Programs Account.	1,367,000
1760-001-0602—For support of Department of General Services, for payment to Item 1760-001-0666, payable from the Architecture Revolving Fund	35,772,000
1760-001-0666—For support of Department of General Services, payable from the Service Revolving Fund	488,229,000
Schedule:	
(1) Program support.....	702,144,000
(2) Distributed services	-12,994,000
(3) Reimbursements—Lease revenue... ..	-1,440,000
(4) Amount payable from the General Fund (Item 1760-001-0001).....	-7,000,000
(5) Amount payable from the Property Acquisition Law Money Account (Item 1760-001-0002)	-2,824,000
(6) Amount payable from the Motor Vehicle Parking Facilities Money Account (Item 1760-001-0003).....	-3,991,000
(7) Amount payable from the State Emergency Telephone Number Account (Item 1760-001-0022).....	-4,939,000
(8) Amount payable from the State Motor Vehicle Insurance Account (Item 1760-001-0026)	-3,996,000
(9) Amount payable from the Seismic Gas Valve Certification Fee Account (Item 1760-001-0450).....	-75,000
(10) Amount payable from the Energy Resources Programs Account (Item 1760-001-0465)	-1,367,000

Item	Amount
(11) Amount payable from the Architecture Revolving Fund (Item 1760-001-0602)	-35,772,000
(12) Amount payable from the Earthquake Safety and Public Buildings Rehabilitation Fund of 1990 (Item 1760-001-0768)	-609,000
(13) Amount payable from the State School Deferred Maintenance Fund (Item 1760-001-0961).....	-143,000
(14) Amount payable from the 2002 State School Facilities Fund (Item 1760-001-6036)	-11,612,000
(15) Amount payable from the Motor Vehicle Parking Facilities Money Account (Item 1760-002-0003).....	-1,101,000
(16) Amount payable from the Service Revolving Fund (Item 1760-002-0666)	-111,552,000
(17) Amount payable from the Service Revolving Fund (Item 1760-003-0666).....	-14,500,000

Provisions:

1. Notwithstanding any other provision of law, revenues from the sale of legislative bills and publications received by the Bill Room shall be deposited in the Service Revolving Fund.
2. Notwithstanding any other provision of law, if the Director of the Department of General Services determines in writing that there is insufficient cash in a special fund under his or her authority to make one or more payments currently due and payable, he or she may order the transfer of moneys to that special fund in the amount necessary to make payment or payments, as a loan from the Service Revolving Fund. That loan shall be subject to all of the following conditions:
 - (a) No loan shall be made that would interfere with the carrying out of the object for which the Service Revolving Fund was created.
 - (b) The loan shall be repaid as soon as there is sufficient Moneys in the recipient fund to repay the amount loaned, but no later than 18 months after the date of the loan. The amount loaned shall not exceed the amount that the fund or program is authorized at the time of

Item

Amount

- the loan to expend during the 2004–05 fiscal year from the recipient fund except as otherwise provided in Provisions 4, 5, and 6 of this item.
- (c) The terms and conditions of the loan are approved, prior to the transfer of funds, by the Department of Finance pursuant to appropriate fiscal standards.
3. The Director of General Services may augment this item or any of Items 1760-001-0002, 1760-001-0003, 1760-001-0026, and 1760-001-0602, by up to an aggregate of 10 percent in cases where (a) the Legislature has approved funds for a customer for the purchase of services or equipment through the Department of General Services (DGS) and the corresponding expenditure authority has not been provided in this item or (b) a local government entity or the federal government has requested services from the DGS. Any augmentation that is deemed to be necessary on a permanent basis shall be submitted for review as part of the normal budget development process. If the Director of the Department of General Services augments this item or Item 1760-001-0002, 1760-001-0003, 1760-001-0026, or 1760-001-0602, the DGS shall notify the Department of Finance within 30 days after that augmentation is made as to the amount, justification, and the program augmented. Any augmentation made in accordance with this provision shall not result in an increase in any rate charged to other departments for services or the purchase of goods without the prior written consent of the Department of Finance.
4. If this item or Item 1760-001-0002, 1760-001-0003, 1760-001-0026, or 1760-001-0602, is augmented pursuant to Provision 3 by the maximum allowed under that provision, the Director of Finance may further augment the item or items in cases where (a) the Legislature has approved funds for a customer for the purchase of services or equipment through the DGS and the corresponding expenditure authority has not been provided in these items, or (b) a local government entity or the federal government has requested services from the DGS. Any augmentation that is

Item

Amount

- deemed to be necessary on a permanent basis shall be submitted for review as part of the normal budget development process.
5. The Director of General Services may augment this item and Items 1760-001-0026 and 1760-001-0003 to increase authorized expenditures by the Office of State Publishing, the Office of Risk and Insurance Management, the Office of Fleet Administration, the Office of Energy Management, and the Office of Public Safety Radio Services. The augmentation shall be for the specific purpose of enabling the Office of State Publishing, the Office of Risk and Insurance Management, the Office of Fleet Administration, the Office of Energy Management, and the Office of Public Safety Radio Services to provide competitive services to their customers (including local government entities or the federal government) and may be made only if the office has sufficient operating reserves available to fund the augmentation. If the Director of General Services proposes to augment either of the items in this provision, the director shall notify the Department of Finance, the chairpersons of the fiscal committees of each house, and the Chairperson of the Joint Legislative Budget Committee 30 days prior to making the augmentation, including the amount, justification, and the office augmented. Any augmentation that is deemed to be necessary on a permanent basis shall be submitted for review as part of the normal budget development process.
 6. Any augmentation made pursuant to Provisions 3 and 4 of this item shall be reported in writing to the chairpersons of the fiscal committees of each house and the Chairperson of the Joint Legislative Budget Committee within 30 days of the date the augmentation is approved. This notification shall identify the amount of, and justification for, the augmentation, and the program that has been augmented. Copies of the notification shall be provided to the Department of Finance.
 7. Notwithstanding any other provision of law, the Director of General Services or his or her designee, in lieu of the Director of Finance, is authorized to carry out the provisions of Section 26.00 of this act as it pertains to category transfers.

Item	Amount
8. Notwithstanding any other provision of law, the Director of General Services or his or her designee, in lieu of the Director of Finance, is authorized to approve Budget Revision, Standard Form 26 subject to a copy being provided to the Department of Finance.	
9. On or before July 1, 2004, the Department of General Services shall submit to the Department of Finance and the Legislative Analyst’s office, a report detailing the cost factors reflected in the 2004–05 rates. This report shall include (a) a statement of the department’s expenditures and revenues, by function, and an assessment of whether the rates charged for a given function recover the costs of providing the service, and (b) information detailing the incremental changes to rates between fiscal years, including the reason for, and aggregate amount of, the changes. The Department of Finance shall use this report to review the current methodologies used to set rates and shall provide a report of its findings as part of the 2005–06 Governor’s Budget.	
1760-001-0768—For support of Department of General Services, for payment to Item 1760-001-0666, payable from the Earthquake Safety and Public Buildings Rehabilitation Fund of 1990	609,000
1760-001-0961—For support of Department of General Services, for payment to Item 1760-001-0666, payable from the State School Deferred Maintenance Fund	143,000
1760-001-6036—For support of Department of General Services, for payment to Item 1760-001-0666, payable from the 2002 State School Facilities Fund.....	11,612,000
1760-002-0003—For support of Department of General Services, for rental payments on lease-revenue bonds, for payment to Item 1760-001-0666, payable from the Motor Vehicle Parking Facilities Moneys Account	1,101,000
Provisions:	
1. The funds appropriated in this item are for the following:	
(a) Base Rental and Fees.....	1,092,000
(b) Insurance.....	9,000
2. The Controller shall transfer funds appropriated in this item according to a schedule to be provided by the State Public Works Board. The schedule	

Item	Amount
shall be provided on a monthly basis or as otherwise might be needed to ensure debt requirements are met.	
1760-002-0666—For support of Department of General Services, for rental payments on lease-revenue bonds, for payment to Item 1760-001-0666, payable from the Service Revolving Fund.....	111,552,000
Provisions:	
1. The funds appropriated in this item are for the following:	
(a) Base rental and fees.....	112,061,000
(1) Capitol Area Development Authority, Sacramento	688,000
(2) State Office Building, Riverside	2,221,000
(3) Department of Justice Building, Sacramento	4,926,000
(4) San Francisco Civic Center Building	25,652,000
(5) Ronald Reagan Building, Los Angeles	17,721,000
(6) Elihu M. Harris Building, Oakland.....	11,518,000
(7) LA Junipero Serra II.....	4,796,000
(8) State Office Building, San Diego (Suburban) ..	2,884,000
(9) Capitol East End Garage.....	979,000
(10) Stephen P. Teale Data Center.....	3,498,000
(11) Capitol Area East End Complex	32,757,000
(12) Butterfield Warehouse Plant.....	2,476,000

Item	Amount
<ul style="list-style-type: none"> (13) State Office <ul style="list-style-type: none"> Building #10.... 945,000 (14) Food and Ag.... 1,000,000 (b) Insurance..... 931,000 (c) Reimbursements -1,440,000 	
2. The Controller shall transfer funds appropriated in this item according to a schedule to be provided by the State Public Works Board. The schedule shall be provided on a monthly basis or as otherwise might be needed to ensure debt requirements are met.	
1760-003-0666—For support of Department of General Services, for rental payments on California Environmental Protection Agency Building, for payment to Item 1760-001-0666, payable from the Service Revolving Fund.....	14,500,000
Provisions:	
1. The Controller shall transfer funds appropriated in this item according to a schedule to be provided by the State Public Works Board. The schedule shall be provided on a monthly basis or as otherwise might be needed to ensure debt requirements are met.	
1760-101-0022—For local assistance, Department of General Services, for reimbursement of local agencies and service suppliers or communications equipment companies for costs incurred pursuant to Sections 41137, 41137.1, 41138, and 41140 of the Revenue and Taxation Code, payable from the State Emergency Telephone Number Account	147,925,000
1760-301-0768—For capital outlay, Department of General Services, payable from the Earthquake Safety and Public Buildings Rehabilitation Fund of 1990..	4,653,000
Schedule:	
(1) 50.99.029-Program Management....	766,000
(2) 50.99.408-California Correctional Institution, Tehachapi, Dormitory F5, F6, F7, F8: Structural Retrofit—Preliminary plans, working drawings and construction	3,072,000
(3) 50.99.500-Project Studies	815,000
Provisions:	
1. Pursuant to funds appropriated in Schedule (1) and notwithstanding any other provision of law, the Director of the Department of General Services or his or her designee may contract for pro-	

Item	Amount
<p>gram management services provided by a licensed architect, registered engineer, or licensed general contractor where a firm is selected to assist DGS in project management activities, planning, designing, estimating, reviewing, and completing, a multiproject construction program.</p> <p>2. If, during the validation portion of project studies in Schedule (3), the risk level of any of these projects is reduced, or where a project study savings has been realized, the funding for that particular project study shall be available for expenditure for any of the other Project studies in this appropriation. If this change in funding occurs, the Department of General Services shall report to the Department of Finance detailing the project or projects reduced in seismic risk level, or the redirection of project study savings within this appropriation.</p>	
<p>1760-401—Notwithstanding Provision 1 of Item 1760-011-0006, Budget Act of 2002 (Ch. 379, Stats. 2002), \$5,000,000 of the \$10,000,000 loan authorized in that item shall be repaid to the Disability Access Account no later than October 1, 2005. This loan shall be repaid with interest calculated at the rate earned by the Pooled Money Investment Account at the time of transfer. It is the intent of the Legislature that repayment be made so as to ensure that the programs supported by this fund are not adversely affected by the loan through reduction in service or increased fees.</p>	
<p>1760-402—Notwithstanding Provision 1 of Item 1760-011-0328 of the Budget Act of 2002 (Ch. 379, Stats. 2002), the \$35,000,000 loan authorized in that item shall be fully repaid to the Public School Planning, Design, and Construction Review Revolving Fund no later than October 1, 2005. This loan shall be repaid with interest calculated at the rate earned by the Pooled Money Investment Account at the time of transfer. It is the intent of the Legislature that repayment be made so as to ensure that the programs support by this fund are not adversely affected by the loan through reduction in service or increased fees.</p>	
<p>1760-490—Reappropriation, Department of General Services. The balance of the appropriation provided in the following citation is reappropriated for the pur-</p>	

Item		Amount
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poses and subject to the limitations, unless otherwise specified, provided for in the appropriations:

0660—Public Buildings Construction Fund

(1) Item 1760-301-0660, Budget Act of 2003, (Ch. 157, Stats. 2003)

(2) 50.20.515-Marysville Office Building: Replacement—Construction

0768—Earthquake Safety and Public Buildings Rehabilitation Fund of 1990

(1) Item 1760-301-0768, Budget Act of 2002, (Ch. 379, Stats. 2002)

(4) 50.99.092-California Department of Corrections, California Correctional Institute, Tehachapi, Dorm E1, E2, E3, E4: Structural Retrofit—Construction.

Provisions:

1. The project identified in Schedule (2) of this item is authorized to utilize the design-build delivery method identified in clause (i) of subparagraph (A) of paragraph (3) of subdivision (d) of Section 14661 of the Government Code.

1760-492—Reappropriation, Department of General Services. The balance, as of June 30, 2004, of the funds made available pursuant to Item 1760-101-0768, Budget Act of 1994 (Ch. 139, Stats. 1994) and Item 1760-101-0768, Budget Act of 1998 (Ch. 324, Stats. 1998), as reappropriated by Item 1760-492, Budget Act of 2003 (Ch. 157, Stats. 2003), is reappropriated and shall be available for expenditure until June 30, 2005.

Schedule:

(1) 3116-Richmond, Contra Costa— City Hall	1,149,975
(2) 3117-Richmond, Contra Costa— Hall of Justice	683,613
(2.5) 4029-Alameda, Oakland—Police Administration Retrofit	500,000
(3) 4042-Orinda, Contra Costa: Orinda Fire Station 44.....	57,671

Provisions:

1. The source of revenue for this item is the same as that identified in the Budget Act of 2003 (Ch. 157, Stats. 2003), but corrects an erroneous reference contained in that item.

Item	Amount
1880-001-0001—For support of State Personnel Board .	3,888,000

Schedule:

- (1) 10-Merit System Administration 14,352,000
- (2) 40-Local Government Services 2,759,000
- (3) 50.01-Administrative Services 2,798,000
- (4) 50.02-Distributed Administrative Services -1,862,000
- (5) Reimbursements -14,159,000

Provisions:

1. Notwithstanding any other provision of law, the Director of Finance may authorize a loan from the General Fund, in an amount not to exceed 35 percent of reimbursements appropriated in this item to the State Personnel Board, provided that:
 - (a) The loan is to meet cash needs resulting from the delay in receipt of reimbursements for services provided.
 - (b) The loan is for a short term and shall be repaid by September 30, 2005.
 - (c) Interest charges may be waived pursuant to subdivision (e) of Section 16314 of the Government Code.
 - (d) The Director of Finance may not approve the loan unless the approval is made in writing and filed with the Chairperson of the Joint Legislative Budget Committee and the chairperson of the committee in each house that considers appropriations not later than 30 days prior to the effective date of the approval, or not sooner than whatever lesser time that the chairperson of the joint committee or his or her designee may determine.

1880-295-0001—For local assistance, State Personnel Board, for reimbursement, in accordance with the provisions of Section 6 of Article XIII B of the California Constitution or Section 17561 of the Government Code, of the costs of any new program or increased level of service of an existing program mandated by statute or executive order, for disbursement by the State Controller.....	1,000
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Schedule:

- (1) 98.01.067.590-Peace Officers Procedural Bill of Rights (Ch. 675, Stats. 1990) 1,000

Provisions:

1. Except as provided in Provision 2 of this item, allocations of funds provided in this item to the ap-

Item	Amount
<p>appropriate local entities shall be made by the State Controller in accordance with the provisions of each statute or executive order that mandates the reimbursement of the costs, and shall be audited to verify the actual amount of the mandated costs in accordance with subdivision (d) of Section 17561 of the Government Code. Audit adjustments to prior year claims may be paid from this item. Funds appropriated in this item may be used to provide reimbursement pursuant to Article 5 (commencing with Section 17615) of Chapter 4 of Part 7 of Division 4 of Title 2 of the Government Code.</p> <p>2. If any of the scheduled amounts are insufficient to provide full reimbursement of costs, the State Controller may, upon notifying the Director of Finance in writing, augment those deficient amounts from the unencumbered balance of any other scheduled amounts therein. No order may be issued pursuant to this provision unless written notification of the necessity therefor is provided to the chairperson of the committee in each house that considers appropriations and the Chairperson of the Joint Legislative Budget Committee or his or her designee.</p>	
<p>1900-001-0950—For support of Board of Administration of the Public Employees’ Retirement System, payable from the Public Employees’ Contingency Reserve Fund</p>	17,599,000
<p>Provisions:</p> <p>1. The appropriation made in this item is for support of the board of administration pursuant to Section 22840 of the Government Code.</p>	
<p>1900-003-0830—For support of Board of Administration of the Public Employees’ Retirement System, payable from the Public Employees’ Retirement Fund.....</p>	(347,752,000)
<p>Provisions:</p> <p>1. The amount displayed in this item is based on the estimate by the Public Employees’ Retirement System of expenditures for external investment advisers and other investment related expenses to be made during the 2004–05 fiscal year pursuant to Sections 20172, 20208, and 20210 of the Government Code. The Board of Administration of</p>	

Item

Amount

the Public Employees' Retirement System shall report to the fiscal committees of the Legislature and the Joint Legislative Budget Committee on or before January 10, 2005, regarding any revision of this estimate, including an accounting and explanation of changes, and the amount of, and basis for, investment adviser expenditures proposed for the 2005-06 fiscal year. The Board of Administration of the Public Employees' Retirement System shall report on or before January 10, 2006, on the final expenditures under this item, including an accounting and explanation of changes from estimates previously reported to the Legislature.

- 2. Each of the two reports described in Provision 1 also shall include all of the following:
 - (a) A summary and comparison of the externally managed portfolios, the internally managed portfolios, and the total fund. This information shall include the value of the assets, the gross and net returns, the benchmark returns, and the costs, by dollars and basis points, for these portfolios.
 - (b) A description of the actions the Public Employees' Retirement System will take to ensure that any future expenditures for outside advisers will result in a greater return on investments, including costs for these advisers, than if in-house advisers were used.
 - (c) Separate listings of adviser contracts in effect, and approved, during the 2003-04 and 2004-05 fiscal years, with (1) amounts (total contract and annual basis) for each contract for base fees and performance-based fees, and (2) summary statements of the purposes of each contract.

1900-015-0815—For support of Board of Administration of the Public Employees' Retirement System, payable from the Judges' Retirement Fund Provisions:

(747,000)

- 1. Notwithstanding any other provision of law, the Board of Administration of the Public Employees' Retirement System (PERS), in accordance with all applicable provisions of the California Constitution, shall submit to the Controller, the Department of Finance, the Joint Legislative Bud-

Item

Amount

get Committee, and the fiscal committees of the Legislature, all of the following:

- (a) No later than January 10, 2005, a copy of the proposed budget for PERS for the 2005–06 fiscal year as included with the Governor’s Budget.
- (b) No later than May 15, 2005, a copy of the proposed budget for PERS for the 2005–06 fiscal year as approved by the board of administration.
- (c) The revisions to the proposed budget for PERS for the 2004–05 fiscal year, as recommended by the PERS Finance Committee, at least 30 days prior to the consideration of those revisions by the board of administration.
- (d) Commencing October 1, 2004, all expenditure and performance workload data provided to the board of administration, as updated on a quarterly basis. This quarterly update information is to be submitted to the Joint Legislative Budget Committee and the fiscal committees of the Legislature, and shall be in sufficient detail to be useful for legislative oversight purposes and to sustain a thorough ongoing review of Public Employees’ Retirement System expenditures.

1900-015-0820—For support of Board of Administration of the Public Employees’ Retirement System, payable from the Legislators’ Retirement Fund

(321,000)

Provisions:

- 1. Notwithstanding any other provisions of law, the Board of Administration of the Public Employees’ Retirement System, in accordance with all applicable provisions of the California Constitution, shall submit to the Controller, the Department of Finance, the Joint Legislative Budget Committee, and the fiscal committees of the Legislature all of the following:
 - (a) A copy of the proposed budget for the Public Employees’ Retirement System for the 2005–06 fiscal year by January 10, 2005, as included with the Governor’s Budget.
 - (b) A copy of the proposed budget for the Public Employees’ Retirement System for the 2005–06 fiscal year as approved by the board of administration by May 15, 2005.

Item

Amount

- (c) The revisions to the proposed budget for the Public Employees’ Retirement System for the 2004–05 fiscal year as recommended by the Public Employees’ Retirement System Finance Committee at least 30 days prior to consideration of those revisions by the board of administration.
- (d) Commencing October 1, 2004, all expenditure and performance workload data provided to the board of administration, updated on a quarterly basis, shall be submitted to the Joint Legislative Budget Committee and the fiscal committees of the Legislature. The quarterly update information submitted to the Legislature shall be in sufficient detail to be useful for legislative oversight purposes and to sustain a thorough ongoing review of the expenditures of the Public Employees’ Retirement System.

1900-015-0830—For support of Board of Administration of the Public Employees’ Retirement System, payable from the Public Employees’ Retirement Fund..... (235,577,000)

Provisions:

1. Notwithstanding any other provision of law, the Board of Administration of the Public Employees’ Retirement System, in accordance with all applicable provisions of the California Constitution, shall submit to the Controller, the Department of Finance, the Joint Legislative Budget Committee, and the fiscal committees of the Legislature, all of the following:
 - (a) A copy of the proposed budget for the Public Employees’ Retirement System for the 2005–06 fiscal year by January 10, 2005, as included with the Governor’s Budget.
 - (b) A copy of the proposed budget for the Public Employees’ Retirement System for the 2005–06 fiscal year as approved by the board of administration by May 15, 2005.
 - (c) The revisions to the proposed budget for the Public Employees’ Retirement System for the 2004–05 fiscal year as recommended by the Public Employees’ Retirement System Finance Committee at least 30 days prior to consideration of those revisions by the board of administration.

Item	Amount
<p>2. Commencing October 1, 2004, all expenditure and performance workload data provided to the board of administration, updated on a quarterly basis, shall be submitted to the Joint Legislative Budget Committee and the fiscal committees of the Legislature. The quarterly update information submitted to the Legislature shall be in sufficient detail to be useful for legislative oversight purposes and to sustain a thorough ongoing review of the expenditures of the Public Employees' Retirement System.</p> <p>3. Commencing July 1, 2004, reports on information technology projects that are submitted to the board of administration shall be submitted to the Joint Legislative Budget Committee, the fiscal committees of the Legislature, and the Department of Finance on an informational basis. The quarterly update information submitted to the Department of Finance shall be in sufficient detail to be useful for Department of Finance informational project status reporting purposes.</p>	
<p>1900-015-0884—For support of Board of Administration of the Public Employees' Retirement System, payable from the Judges' Retirement System II Fund... Provisions:</p> <p>1. Notwithstanding any other provision of law, the Board of Administration of the Public Employees' Retirement System (PERS), in accordance with all applicable provisions of the California Constitution, shall submit to the Controller, the Department of Finance, the Joint Legislative Budget Committee, and the fiscal committees of the Legislature, all of the following:</p> <p>(a) No later than January 10, 2005, a copy of the proposed budget for PERS for the 2005–06 fiscal year as included with the Governor's Budget.</p> <p>(b) No later than May 15, 2005, a copy of the proposed budget for PERS for the 2005–06 fiscal year as approved by the board of administration.</p> <p>(c) The revisions to the proposed budget for PERS for the 2004–05 fiscal year, as recommended by the PERS Finance Committee, at least 30 days prior to the consideration of those revisions by the board of administration.</p>	<p>(480,000)</p>

Item

Amount

- (d) Commencing October 1, 2004, all expenditure and performance workload data provided to the board of administration, as updated on a quarterly basis. This quarterly update information is to be submitted to the Joint Legislative Budget Committee and the fiscal committees of the Legislature, and shall be in sufficient detail to be useful for legislative oversight purposes and to sustain a thorough ongoing review of Public Employees' Retirement System expenditures.

1900-015-0962—For support of Board of Administration of the Public Employees' Retirement System, payable from the Volunteer Firefighter Length of Service Award Fund

(121,000)

Provisions:

1. Notwithstanding any other provision of law, the Board of Administration of the Public Employees' Retirement System, in accordance with all applicable provisions of the California Constitution, shall submit to the Controller, the Department of Finance, the Joint Legislative Budget Committee, and the fiscal committees of the Legislature, all of the following:
 - (a) A copy of the proposed budget for the Public Employees' Retirement System for the 2005–06 fiscal year by January 10, 2005, as included with the Governor's Budget.
 - (b) A copy of the proposed budget for the Public Employees' Retirement System for the 2005–06 fiscal year as approved by the board of administration by May 15, 2005.
 - (c) The revisions to the proposed budget for the Public Employees' Retirement System for the 2004–05 fiscal year recommended by the Public Employees' Retirement System Finance Committee, at least 30 days prior to consideration of those revisions by the board of administration.
 - (d) Commencing October 1, 2004, all expenditure and performance workload data provided to the board of administration, updated on a quarterly basis, shall be submitted to the Joint Legislative Budget Committee and the fiscal committees of the Legislature. The quarterly update information submitted to the Legislature shall be in sufficient detail to be useful

Item	Amount
<p>for legislative oversight purposes and to sustain a thorough ongoing review of the expenditures of the Public Employees' Retirement System.</p>	
<p>1900-017-0950—For support of Public Employees' Retirement System payable from the Public Employees' Contingency Reserve Fund.....</p>	223,000
<p>Provisions:</p>	
<p>1. The funding appropriated in this item is limited to the amount specified in Control Section 17.00. These funds are to be used in support of compliance activities related to the federal Health Insurance Portability and Accountability Act (HIPAA) of 1996.</p>	
<p>1920-001-0835—For support of State Teachers' Retirement System, payable from the State Teachers' Retirement Fund.....</p>	107,222,000
<p>Schedule:</p>	
<p>(1) 10-Services to Members and Employers</p>	107,624,000
<p>(2) Reimbursements.....</p>	-339,000
<p>(3) Amount payable from the Supplemental Benefit Maintenance Account in the Teachers' Retirement Fund pursuant to Section 22954 of the Education Code.....</p>	-63,000
<p>Provisions:</p>	
<p>1. This item shall not be subject to the requirements of subdivision (b), (c), (d), or (e) of Section 31.00 of this act. Nothing in this provision shall be construed as exempting this item from requirements of the State Civil Service Act or from requirements of laws, rules, and regulations administered by the Department of Personnel Administration.</p>	
<p>2. Commencing July 1, 2004, reports on information technology projects that are submitted to the Teachers' Retirement Board shall be submitted to the Joint Legislative Budget Committee, the fiscal committees of the Legislature, and the Department of Finance on an informational basis. The information submitted to the Department of Finance shall be in sufficient detail to be useful for Department of Finance informational project status reporting purposes.</p>	
<p>1920-002-0835—For support of State Teachers' Retirement System (external investment advisers), payable from the State Teachers' Retirement Fund.....</p>	(106,000,000)

Item	Amount
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Provisions:

1. The amount displayed in this item is for informational purposes only, and is based on the current estimate by the State Teachers' Retirement System (STRS) of expenditures for external investment advisers to be made during the 2004-05 fiscal year pursuant to Section 22353 of the Education Code. The STRS shall report to the fiscal committees of the Legislature and the Joint Legislative Budget Committee no later than January 10, 2005, regarding any revision of this estimate, including an accounting and explanation of the changes, and regarding the amount of, and basis for, investment adviser expenditures proposed for the 2005-06 fiscal year. The STRS shall report on or before January 10, 2006, on the final expenditures under this item, including an accounting and explanation of changes from estimates previously reported to the Legislature.
2. Each of the two reports described in Provision 1 also shall include all of the following:
 - (a) A summary and comparison of the externally managed portfolios, the internally managed portfolios, and the total fund. This information shall include the value of the assets, the gross and net returns, the benchmark returns, and the costs by dollars and basis points for these portfolios.
 - (b) A description of the actions the State Teachers' Retirement System will take to ensure that any future expenditures for outside advisers will result in a greater return on investments, including costs for these advisers, than if in-house advisers were used.
 - (c) Separate listings of adviser contracts in effect, and approved, during the 2003-04 and 2004-05 fiscal years, with (1) amounts (total contract and annual basis) for each contract for base fees and performance-based fees, (2) summary statements of the purposes of each contract.

1920-011-0001—For transfer by the Controller to the State Teachers' Retirement Fund.....(1,150,842,000)

Schedule:

- (1) Supplemental Benefit Maintenance

Account (SBMA)	(584,925,000)
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- (2) Benefits Funding

(565,917,000)

Item		Amount
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Provisions:

1. The estimated amount referenced in Schedule (1) is the state’s contribution required by Section 22954 of the Education Code.
2. The estimated amount referenced in Schedule (2) is the state’s contribution required by subdivision (a) of Section 22955 of the Education Code.

1920-490—Reappropriation, State Teachers’ Retirement System (STRS). Notwithstanding any other provision of law, up to \$2,892,000 of the balance as of June 30, 2004, of the appropriation identified in the following citation is reappropriated, subject to the limitations set forth in Provision 1, and shall be available for encumbrance and expenditure until June 30, 2005. Any amount of this reappropriation that is not expended in 2004–05 shall be carried over to 2005–06 and is hereby reappropriated. In no event shall the total amounts reappropriated for the 2005–06 Budget exceed three percent of STRS’ 2004–05 appropriation.

0835—State Teachers’ Retirement Fund

- (1) Item 1920-001-0835, Budget Act of 2003 (Ch. 157, Stats. 2003)

Provisions:

1. The funds reappropriated in this item shall be available for expenditure by the State Teachers’ Retirement System for the purposes of meeting unanticipated system costs and promoting better service to the system’s membership. The funds may not be encumbered without advance approval of the State Teachers’ Retirement Board. The board shall report to the Legislature on a quarterly basis throughout the 2004–05 fiscal year on expenditures made pursuant to this item.

BUSINESS, TRANSPORTATION AND HOUSING

2100-001-3036—For support of Department of Alcoholic Beverage Control, payable from the Alcohol Beverage Control Fund.....	40,875,000
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Schedule:

- | | |
|---|------------|
| (1) 10.10-Licensing..... | 22,663,000 |
| (2) 10.20-Compliance | 19,236,000 |
| (3) 10.30.010-Administration | 3,720,000 |
| (4) 10.30.020-Distributed Administration..... | -3,720,000 |
| (5) Reimbursements | -1,024,000 |

Item	Amount
2100-011-0081—For transfer by the Controller, from the Alcohol Beverage Control Fund to the Alcohol Beverage Control Fund	(1,510,000)
2100-101-3036—For local assistance, Department of Alcoholic Beverage Control, Program 10.20-Compliance, for grants to local law enforcement agencies payable from the Alcohol Beverage Control Fund .. Provisions:	1,500,000
1. Notwithstanding any other provisions of law, the Department of Alcoholic Beverage Control is authorized to grant funds to local law enforcement agencies for the purpose of enhancing enforcement of alcoholic beverage control laws in the local jurisdiction.	
2. Notwithstanding any other provisions of law, at the discretion of the Director of Alcoholic Beverage Control, the department may advance grant funds to local law enforcement agencies.	
3. Notwithstanding any other provisions of law, at the discretion of the Director of Alcoholic Beverage Control, title to any authorized equipment purchased by the local law enforcement agency pursuant to the grant may be vested in the local law enforcement agency at the conclusion of the grant period.	
2120-001-0117—For support of Alcoholic Beverage Control Appeals Board, Program 10, payable from the Alcoholic Beverage Control Appeals Fund.....	895,000
2150-001-0240—For support of Department of Financial Institutions, for payment to Item 2150-001-0298, payable from the Local Agency Deposit Security Fund	349,000
2150-001-0298—For support of Department of Financial Institutions, payable from the Financial Institutions Fund	18,064,000
Schedule:	
(1) 10-Licensing and Supervision of Banks and Trust Companies	16,292,000
(2) 20-Special Licensees	866,000
(3) 40-Administration of Local Agency Security	349,000
(4) 50-Supervision of California Business and Industrial Development Corporations	29,000
(5) 60-Credit Unions.....	3,642,000
(6) 70-Savings and Loan.....	136,000
(7) 80-Industrial Banks	1,041,000

Item	Amount
(8) 90.01-Administration.....	4,701,000
(9) 90.02-Distributed Administration ...	-4,701,000
(10) Reimbursements	-300,000
(11) Amount payable from the Local Agency Deposit Security Fund (Item 2150-001-0240)	-349,000
(12) Amount payable from the Credit Union Fund (Item 2150-001-0299).....	-3,642,000

Provisions:

1. The Department of Financial Institutions shall report to the budget committees of each house of the Legislature and to the Legislative Analyst by January 10, 2006, on the level of noncompliance found with the California Financial Privacy Act (Division 1.2 (commencing with Section 4050) of the Financial Code), any changes to state or federal law, or court decisions, that affect the workload of the Department of Financial Institutions as it relates to the California Financial Information Privacy Act, and any staffing changes requested based on the level of compliance or changes in the law.

2150-001-0299—For support of Department of Financial Institutions, for payment to Item 2150-001-0298, payable from the Credit Union Fund..... 3,642,000

2180-001-0067—For support of Department of Corporations, payable from the State Corporations Fund..... 27,965,000

Schedule:

- | | |
|--|------------|
| (1) 10-Investment Program | 16,670,000 |
| (2) 20-Lender-Fiduciary Program | 11,295,000 |
| (3) 50.01-Administration..... | 5,616,000 |
| (4) 50.02-Distributed Administration ... | -5,616,000 |

Provisions:

1. The amount appropriated in this item may include revenues derived from the assessment of fines and penalties imposed as specified in Section 13332.18 of the Government Code.
2. The Department of Corporations shall report to the committee of each house of the Legislature that considers the Budget Bill and the Legislative Analyst’s Office by January 10, 2006, (a) the level of noncompliance with the California Financial Privacy Act (Division 1.2 (commencing with Section 4050) of the Financial Code), (b) any changes

Item	Amount
to state or federal law, including court decisions, that affect workload under that act, and (c) any staffing changes requested based on (a) or (b).	
2180-011-0067—For transfer by the Controller from the State Corporations Fund to the General Fund	(1,500,000)
Provisions:	
1. Notwithstanding any other provision of law, the amount of this item shall be transferred from the State Corporations Fund to the General Fund.	
2240-001-0001—For support of Department of Housing and Community Development	4,806,000
Schedule:	
(1) 10-Codes and Standards Program ..	23,375,000
(2) 20-Community Affairs Program	14,635,000
(3) 30.01-Housing Policy Development Program	2,115,000
(4) 30.02-Distributed Housing Policy Development Program	-122,000
(6) 50.01-Administration	9,900,000
(7) 50.02-Distributed Administration ...	-9,756,000
(8) Reimbursements	-1,152,000
(9) Amount payable from the Mobile-home Park Revolving Fund (Item 2240-001-0245)	-4,513,000
(10) Amount payable from the Mobile-home Park Purchase Fund (Item 2240-001-0530)	-604,000
(11) Amount payable from the Mobile-home-Manufactured Home Revolving Fund (Item 2240-001-0648)	-16,866,000
(12) Amount payable from the Self-Help Housing Fund (Item 2240-001-0813)	-154,000
(13) Amount payable from the Federal Trust Fund (Item 2240-001-0890)	-7,586,000
(14) Amount payable from the Housing Rehabilitation Loan Fund (Item 2240-001-0929)	-2,088,000
(15) Amount payable from the Rental Housing Construction Fund (Item 2240-001-0938)	-728,000
(16) Amount payable from the Predevelopment Loan Fund (Item 2240-001-0980)	-350,000

Item	Amount
(17) Amount payable from the Emergency Housing and Assistance Fund (Item 2240-001-0985).....	-527,000
(18) Amount payable from the Jobs-Housing Balance Improvement Account (2240-001-3006).....	-467,000
(19) Amount payable from the Building Equity and Growth in Neighborhoods Fund (Item 2240-001-6038).....	-306,000
Provisions:	
1. Of the amount appropriated in this item, \$158,000 shall be used to continue oversight by the Department of Housing and Community Development of redevelopment agencies and to provide technical assistance, in accordance with the department's Housing Preservation Plan.	
2240-001-0245—For support of Department of Housing and Community Development, for payment to Item 2240-001-0001, payable from the Mobilehome Park Revolving Fund.....	4,513,000
2240-001-0530—For support of Department of Housing and Community Development, for payment to Item 2240-001-0001, payable from the Mobilehome Park Purchase Fund.....	604,000
2240-001-0648—For support of Department of Housing and Community Development, for payment to Item 2240-001-0001, payable from the Mobilehome-Manufactured Home Revolving Fund.....	16,866,000
Provisions:	
1. Notwithstanding Section 18077 of the Health and Safety Code, or any other provision of law, the first \$2,388,000 in revenues collected by the Department of Housing and Community Development from manufactured home license fees shall be deposited in the Mobilehome-Manufactured Home Revolving Fund, and shall be available to the department for the support, collection, administration, and enforcement of manufactured home license fees.	
2. Notwithstanding Section 18077.5 of the Health and Safety Code, or any other provision of law, the Department of Housing and Community Development is not required to comply with the reporting requirement of Section 18077.5 of the Health and Safety Code.	

Item	Amount
2240-001-0813—For support of Department of Housing and Community Development, for payment to Item 2240-001-0001, payable from the Self-Help Housing Fund	154,000
2240-001-0890—For support of Department of Housing and Community Development, for payment to Item 2240-001-0001, payable from the Federal Trust Fund	7,586,000
2240-001-0929—For support of Department of Housing and Community Development, for payment to Item 2240-001-0001, payable from the Housing Rehabilitation Loan Fund	2,088,000
2240-001-0938—For support of Department of Housing and Community Development, for payment to Item 2240-001-0001, payable from the Rental Housing Construction Fund	728,000
2240-001-0980—For support of Department of Housing and Community Development, for payment to Item 2240-001-0001, payable from the Predevelopment Loan Fund.....	350,000
2240-001-0985—For support of Department of Housing and Community Development, for payment to Item 2240-001-0001, payable from the Emergency Housing and Assistance Fund	527,000
2240-001-3006—For support of Department of Housing and Community Development, for payment to Item 2240-001-0001, payable from the Jobs-Housing Balance Improvement Account.....	467,000
2240-001-6038—For support of Department of Housing and Community Development, for payment to Item 2240-001-0001, payable from the Building Equity and Growth In Neighborhoods Fund	306,000
2240-101-0001—For local assistance, Department of Housing and Community Development	5,291,000
Schedule:	
(1) 20-Community Affairs Program.....	145,141,000
(2) Amount payable from the Federal Trust Fund (Item 2240-101-0890)	-139,850,000
2240-101-0890—For local assistance, Department of Housing and Community Development, for payment to Item 2240-101-0001, payable from the Federal Trust Fund.....	139,850,000
Provisions:	
1. Notwithstanding any other provision of law, federal funds appropriated by this act but not encum-	

Item	Amount
bered by June 30 may be expended in the subsequent fiscal year.	
2240-101-3006—For local assistance, Department of Housing and Community Development, payable from the Jobs-Housing Balance Improvement Account.....	25,000,000
2240-101-6038—For local assistance, Department of Housing and Community Development, Program 20-Community Affairs Program, payable from the Building Equity and Growth In Neighborhoods Fund	24,000,000
2240-105-0001—For transfer, upon order of the Director of Finance, to the Emergency Housing and Assistance Fund	5,300,000
Provisions:	
1. The amount transferred by this item shall be distributed pursuant to Chapter 11.5 (commencing with Section 50800) of Part 2 of Division 31 of the Health and Safety Code for operating facilities and capital development grants.	
2. Grants shall not be used to supplant existing emergency shelter or transitional housing funding. Notwithstanding any regulatory provision to the contrary, operating facilities grants shall not exceed \$100,000 nor be less than \$30,000. For counties with an allocation of greater than \$30,000, one grant of less than \$30,000 may be awarded if necessary to fully utilize the county's allocation. For counties with an allocation of up to or equal to \$30,000, up to two grants of less than \$30,000 may be awarded.	
2240-115-0101—For transfer, upon order of the Director of Finance, from the School Assistance Fee Assistance Fund to the General Fund	(7,322,000)
Provisions:	
1. Upon notification from the Director of Finance, the Controller shall transfer any remaining non-bond funds that are unencumbered as of June 30, 2004.	
2240-115-0472—For transfer, upon order of the Director of Finance, from the Child Care and Development Facilities Direct Loan Fund to the General Fund	(629,000)
2240-115-0474—For transfer, upon order of the Director of Finance, from the Child Care and Development Facilities Loan Guaranty Fund to the General Fund.	(65,000)

Item	Amount
2240-295-0001—For local assistance, Department of Housing and Community Development, for reimbursement, in accordance with the provisions of Section 6 of Article XIII B of the California Constitution or Section 17561 of the Government Code, of the costs of any new program or increased level of service of an existing program mandated by statute or executive order, for disbursement by the State Controller	1,000
Schedule:	
(1) 98.01.114.380-Regional Housing Needs Assessments (Ch. 1143, Stats. 1980)	1,000
Provisions:	
1. Except as provided in Provision 2 of this item, allocations of funds provided in this item to the appropriate local entities shall be made by the State Controller in accordance with the provisions of each statute or executive order that mandates the reimbursement of the costs, and shall be audited to verify the actual amount of the mandated costs in accordance with subdivision (d) of Section 17561 of the Government Code. Audit adjustments to prior year claims may be paid from this item. Funds appropriated in this item may be used to provide reimbursement pursuant to Article 5 (commencing with Section 17615) of Chapter 4 of Part 7 of Division 4 of Title 2 of the Government Code.	
2. If any of the scheduled amounts are insufficient to provide full reimbursement of costs, the State Controller may, upon notifying the Director of Finance in writing, augment those deficient amounts from the unencumbered balance of any other scheduled amounts therein. No order may be issued pursuant to this provision unless written notification of the necessity therefor is provided to the chairperson of the committee in each house which considers appropriations and the Chairperson of the Joint Legislative Budget Committee or his or her designee.	

Item	Amount
2240-490—Reappropriation, Central Valley Infrastructure Grant Program. Notwithstanding any other provision of law, \$400,000 in funds previously appropriated pursuant to Item 2240-101-0001 of Section 2.00 of the Budget Act of 2001 (Ch. 106, Stats. 2001) for the Central Valley Infrastructure Grant Program and encumbered through contract with the City of Orange Cove, is available for encumbrance or expenditure until June 30, 2005.	
2310-001-0400—For support of Office of Real Estate Appraisers payable from the Real Estate Appraisers Regulation Fund	3,338,000
Schedule:	
(1) 10-Administration of Real Estate Appraisers Program.....	3,418,000
(2) Reimbursements.....	-80,000
2320-001-0317—For support of Department of Real Estate, payable from the Real Estate Fund	31,689,000
Schedule:	
(1) 10-Licensing and Education.....	6,517,000
(2) 20-Enforcement and Recovery.....	20,000,000
(3) 30-Subdivisions.....	5,472,000
(4) 40.10-Administration.....	5,246,000
(5) 40.20-Distributed Administration ...	-5,246,000
(6) Reimbursements.....	-300,000
Provisions:	
1. Of the amount appropriated in this item, \$500,000 shall be used only for the purposes of the Real Estate Recovery Account.	
2400-001-0933—For support of Department of Managed Health Care, payable from the Managed Care Fund	33,122,000
Schedule:	
(1) 30-Health Plan Program	33,122,000
(2) 50.01-Administration.....	8,698,000
(3) 50.02-Distributed Administration ...	-8,698,000
Provisions:	
1. The amount appropriated in this item may include revenues derived from the assessment of fines and penalties imposed as specified in Section 13332.18 of the Government Code.	
2400-002-0933—For support of Department of Managed Health Care, for the Office of Patient Advocate, payable from the Managed Care Fund	2,179,000

Item	Amount
2600-001-0042—For support of California Transportation Commission, for payment to Item 2600-001-0046, payable from the State Highway Account, State Transportation Fund	651,000
2600-001-0046—For support of California Transportation Commission, payable from the Public Transportation Account, State Transportation Fund	1,000,000
Schedule:	
(1) 10-Administration of California Transportation Commission	1,651,000
(2) Amount payable from the State Highway Account, State Transportation Fund (Item 2600-001-0042).....	-651,000
2600-402—Before allocating projects in the 2004–05 fiscal year that would result in the issuance of notes pursuant to Section 14553 of the Government Code exceeding \$800,000,000, the California Transportation Commission shall consult with the Business, Transportation and Housing Agency, the Department of Transportation, and the Department of Finance pursuant to Section 14553.8 of the Government Code to consider and determine the appropriateness of the mechanism authorized by Section 14553 of the Government Code in comparison to other funding mechanisms, and to determine and report to the Governor and the Legislature the effect of issuance of the notes on future federal funding commitments. Allocations exceeding \$800,000,000 shall not be made prior to providing 60 days’ notice to the chairpersons of the transportation committees of each house and the Chairperson of the Joint Legislative Budget Committee.	
2640-101-0046—For local assistance, Special Transportation Programs, for allocation by the Controller pursuant to Section 99312 of the Public Utilities Code, payable from the Public Transportation Account, State Transportation Fund	117,365,000
Provisions:	
1. Notwithstanding Sections 99313 and 99314 of the Public Utilities Code, not more than \$67,387 of the amount appropriated by this item shall reimburse the Controller for expenditures for administration of State Transportation Assistance funds.	
2. Notwithstanding Sections 99313 and 99314 of the Public Utilities Code, \$12,106 of the amount appropriated by this item shall reimburse the Gen-	

Item	Amount
eral Fund for statewide general administrative expenditures, known as pro rata, pursuant to Sections 11270 to 11275, inclusive, and Section 22828.5 of the Government Code.	
2660-001-0041—For support of Department of Transportation, for payment to Item 2660-001-0042, payable from the Aeronautics Account, State Transportation Fund	2,925,000
2660-001-0042—For support of Department of Transportation, payable from the State Highway Account, State Transportation Fund.....	1,939,584,000
Schedule:	
(1) 10-Aeronautics	3,196,000
(2) 20.10-Highway Transportation— Capital Outlay Support	1,090,199,000
(3) 20.30-Highway Transportation— Local Assistance	28,965,000
(4) 20.40-Highway Transportation— Program Development.....	72,801,000
(5) 20.65-Highway Transportation— Legal.....	61,024,000
(6) 20.70-Highway Transportation— Operations.....	152,144,000
(7) 20.80-Highway Transportation— Maintenance.....	787,351,000
(8) 30-Mass Transportation.....	109,582,000
(9) 40-Transportation Planning	87,569,000
(10) 50.00-Administration	279,988,000
(11) Reimbursements.....	-122,199,000
(12) Amount payable from the Aeronautics Account, State Transportation Fund (Item 2660-001-0041)...	-2,925,000
(13) Amount payable from the Bicycle Transportation Account, State Transportation Fund (Item 2660-001-0045)	-39,000
(14) Amount payable from the Public Transportation Account, State Transportation Fund (Item 2660-001-0046)	-127,734,000
(15) Amount payable from the Historic Property Maintenance Fund (Item 2660-001-0365)	-1,507,000
(16) Amount payable from the Federal Trust Fund (Item 2660-001-0890)	-471,794,000

Item		Amount
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	(17) Amount payable from the Transportation Financing Subaccount (Item 2660-001-6801)	-7,037,000
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Provisions:

1. For purposes of the funds appropriated in Schedules (2) to (7), inclusive, Program 20—Highway Transportation, upon approval of the Department of Finance, the Department of Transportation shall notify the chairpersons of the fiscal committees and the Chairperson of the Joint Legislative Budget Committee at least 20 days prior to spending funds to expand activities above budgeted levels or to implement a new activity not identified in this act, including any of those expenditures to be funded through a transfer of moneys from other expenditure categories or programs, except in the case of emergency work increases caused by fire, snow, storm, or earth movement damage.
2. From funds appropriated in this item, the Department of Transportation may enter into interagency agreements with the Department of the California Highway Patrol to compensate that department for the cost of work performed by patrol officers at or near state highway construction projects so as to reduce the risk of occurrence of serious motor vehicle accidents.
3. (a) Notwithstanding any other provision of law, funds appropriated in this item from the State Highway Account may be reduced and replaced by an equivalent amount of federal funds determined by the department to be available and necessary to comply with Section 8.50 of this act and the most effective management of state transportation resources. Not more than 30 days after replacing the state funds with federal funds, the Director of Finance shall notify in writing the chairperson of the committee in each house that considers appropriations and the Chairperson of the Joint Legislative Budget Committee of this action.
- (b) To the extent that moneys in the State Highway Account are reduced pursuant to this provision, the Department of Transportation may transfer, with the approval of the Business, Transportation and Housing Agency, and upon authorization by the Director of Fi-

Item

Amount

nance, all or part of the savings to Item 2660-101-0042, 2660-301-0042, or 2660-302-0042 for local assistance or capital outlay projects approved by the California Transportation Commission. The Director of Finance shall authorize the transfer not sooner than 30 days after notification in writing to the chairperson of the committee in each house that considers appropriations and the Chairperson of the Joint Legislative Budget Committee.

4. Notwithstanding any other provision of law, funding appropriated in this item may be transferred to Item 2660-005-0042 to pay for any necessary insurance, debt service, and other financing related expenditures for department-owned office buildings. Any transfer will require the prior approval of the Department of Finance.
 5. Notwithstanding any other provision of law, funds appropriated in Schedules (1) to (10), inclusive, in this item may be transferred to Item 2660-002-0608 for increases in equipment services costs, provided that the increase does not increase the overall appropriation authority for the Department of Transportation and no funding appropriated in Schedules (1) to (10), inclusive, is augmented. Any transfer will require the prior approval of the Department of Finance.
 6. The funds appropriated in Schedule (2) for external consultant and professional services related to project delivery (also known as 232 contracts) that are unencumbered or encumbered but unexpended related to work that will not be performed during the fiscal year shall revert to the fund from which they were appropriated.
 7. Notwithstanding any other provision of law, funds appropriated in this item may be supplemented with federal funding appropriation authority and with prior fiscal year State Highway Account appropriation balances at a level determined by the department as required to process claims utilizing federal advance construction through the Plan of Financial Adjustment process pursuant to Sections 11251 and 16365 of the Government Code.
- 2660-001-0045—For support of Department of Transportation, for payment to Item 2660-001-0042, payable from the Bicycle Transportation Account, State Transportation Fund.....

39,000

Item	Amount
Provisions:	
1. Of the amount appropriated in this item, \$30,000 shall reimburse the General Fund for statewide general administrative expenditures, known as pro rata, pursuant to Sections 11270 to 11275, inclusive, and Section 22828.5 of the Government Code.	
2660-001-0046—For support of Department of Transportation, for payment to Item 2660-001-0042, payable from the Public Transportation Account, State Transportation Fund	127,734,000
Provisions:	
1. For Program 30—Mass Transportation. \$73,138,000 appropriated in this item is available for intercity rail.	
2. Notwithstanding any other provision of law, funds appropriated in this item from the Public Transportation Account may be reduced and replaced by an equivalent amount of federal funds determined by the department to be available and necessary to comply with Section 8.50 of this act and the most effective management of state transportation resources. Not more than 30 days after replacing the state funds with federal funds, the Director of Finance shall notify in writing the chairperson of the committee in each house that considers appropriations and the Chairperson of the Joint Legislative Budget Committee of this action.	
2660-001-0365—For support of Department of Transportation, for payment to Item 2660-001-0042, payable from the Historic Property Maintenance Fund	1,507,000
2660-001-0650—For support of Department of Transportation, payable from the Toll Bridge Seismic Retrofit Account, State Transportation Fund.....	100,420,000
Schedule:	
(1) 20.10-Highway Transportation	100,300,000
(2) 50-Administration	120,000
Provisions:	
1. For the 2004–05 fiscal year, the Director of Finance may increase expenditure authority in this item from funds identified in the Toll Bridge Seismic Retrofit Account pursuant to Chapter 907 of the Statutes of 2001, after notifying the Chairperson of the Joint Legislative Budget Committee and the chairperson of the committee in each house that considers appropriations no later than	

Item	Amount
30 days prior to the effective date of the approval, or not sooner than whatever lesser time the Chairperson of the Joint Legislative Budget Committee or his or her designee may in each instance determine.	
2660-001-0890—For support of Department of Transportation, for payment to Item 2660-001-0042, payable from the Federal Trust Fund	471,794,000
Provisions:	
1. For Program 20—Highway Transportation. For purposes of Section 163 of the Streets and Highways Code, all expenditures from this item shall be deemed to be expenditures from the State Highway Account, State Transportation Fund.	
2. For Program 20—Highway Transportation. Federal funds may be received from any federal source, and shall be deposited in the Federal Trust Fund. Any federal reimbursements shall be credited to the account from which the expenditures were originally made.	
3. Notwithstanding any other provision of law, the Director of Finance may augment this item with additional federal funds in conjunction with an equivalent offsetting reduction in State Highway Account funds in Item 2660-001-0042, pursuant to Provision 3 of that item or Public Transportation Account funds in Item 2660-001-0046, pursuant to Provision 2 of that item.	
2660-001-6801—For support of Department of Transportation, for payment to Item 2660-001-0042, payable from the Transportation Financing Subaccount, State Highway Account, State Transportation Fund	7,037,000
2660-002-0608—For support of Department of Transportation, payable from the Equipment Service Fund...	66,308,000
Provisions:	
1. Notwithstanding any other provision of law, funds appropriated in this item may be increased in accordance with Provision 5 of Item 2660-001-0042.	
2660-002-0890—For support of Department of Transportation, for debt service requirements and other financing related costs for federal Grant Anticipation Revenue Vehicles (GARVEE) issued in fiscal year 2003–04, payable from the Federal Trust Fund.....	783,683,000

Item	Amount
Provisions:	
1. Notwithstanding any other provision of law, the funds appropriated in this item shall be available for encumbrance and expenditure until liquidated.	
2. Notwithstanding Section 28.00, upon approval of the Department of Finance, this item may be augmented if additional funds are necessary to meet debt service and other requirements related to the fiscal year 2003–04 GARVEE issuance.	
3. The appropriation in this item reflects, in part, the pledge made by the California Transportation Commission in accordance with Section 14553.7 of the Government Code in connection with the GARVEE bonds issued in fiscal year 2003–04.	
4. Funds appropriated in this item are in lieu of the amounts that have been appropriated pursuant to Section 14554.8 of the Government Code.	
2660-002-3007—For support of Department of Transportation, payable from the Traffic Congestion Relief Fund	48,101,000
Schedule:	
(1) 20.10-Highway Transportation	
Capital Outlay Support.....	46,770,000
(2) 30-Mass Transportation	249,000
(3) 50-Administration	1,082,000
Provisions:	
1. Notwithstanding any other provision of law, if the California Transportation Commission allocates funds to Traffic Congestion Relief Program projects in the 2004–05 fiscal year, the Director of Finance may increase expenditure authority in this item for additional capital outlay staffing directly related to new Traffic Congestion Relief Program allocations after notifying the Chairperson of the Joint Legislative Budget Committee and the chairperson of the committee in each house that considers appropriations no later than 30 days prior to the effective date of the approval.	
2660-005-0042—For support of Department of Transportation, for building insurance, debt service, and other financing related costs for department-owned office buildings, payable from the State Highway Account, State Transportation Fund	14,776,000
Provisions:	
1. Notwithstanding any other provision of law, funds provided in Item 2660-001-0042 may be transferred to this item to pay for any necessary insur-	

Item	Amount
<p>ance, debt service, and other financing related costs for department-owned office buildings. Any transfer shall require the prior approval of the Department of Finance.</p> <p>2. The Controller shall transfer funds appropriated in this item according to a schedule to be provided by the State Public Works Board. The schedule shall be provided on a monthly basis or as otherwise might be needed to ensure debt requirements are met.</p>	
<p>2660-007-0042—For support of Department of Transportation, payable from the State Highway Account, State Transportation Fund</p>	80,745,000
<p>Schedule:</p> <p>(1) 20.10-Highway Transportation— Capital Outlay Support..... 52,906,000</p> <p>(2) 20.65-Highway Transportation— Legal..... 662,000</p> <p>(3) 20.70-Highway Transportation— Operations 936,000</p> <p>(4) 20.80-Highway Transportation— Maintenance 26,223,000</p> <p>(5) 50-Administration 18,000</p>	
<p>Provisions:</p> <p>1. The funds appropriated in this item may be expended only to attain compliance with (1) the stormwater discharge provisions of the National Pollutant Discharge Elimination System permits as promulgated by the State Water Resources Control Board or regional water quality control boards, (2) the Statewide Storm Water Management Plan, or (3) as required by court order.</p> <p>2. The funds appropriated in this item may be transferred between schedules. Any transfer will require the prior approval of the Department of Finance.</p>	
<p>2660-011-0001—For transfer by the Controller, upon order of the Director of Finance, from the General Fund to the Traffic Congestion Relief Fund.....</p>	(43,000,000)
<p>Provisions:</p> <p>1. This transfer shall constitute partial repayment of loans made from the Traffic Congestion Relief Fund to the General Fund authorized by subdivision (c) of Section 14556.8 of the Government Code.</p>	

Item	Amount
<ul style="list-style-type: none"> 2. It is the intent of the Legislature that an additional repayment of \$140,000,000 of loans made from the Traffic Congestion Relief Fund to the General Fund authorized by subdivision (c) of Section 14556.8 of the Government Code shall be made under the authorization of legislation to be enacted in the 2003–04 Regular Session. 3. Of the \$183,000,000 in transfers to the Traffic Congestion Relief Fund specified in this item, \$163,000,000 shall be retained in the Traffic Congestion Relief Fund for project expenditures and \$20,000,000 shall be transferred to the State Highway Account for loan repayment as authorized by subsection (b) of Section 14556.8 of the Government Code. 	
2660-011-0041—For transfer by the Controller from the Aeronautics Account, State Transportation Fund, to the Public Transportation Account, State Transportation Fund, as prescribed by Section 21682.5 of the Public Utilities Code.....	(30,000)
2660-012-0042—For augmentation for emergencies relating to a state of emergency declared by the Governor, payable from the State Highway Account	(40,000,000)
Provisions:	
<ul style="list-style-type: none"> 1. Required notification to the Legislature of appropriations pursuant to this item shall include, in addition to all other required information, (a) an estimate of federal funds or other funds that the department may receive for the same purposes as the proposed appropriation, and (b) explanation of the necessity of the proposed appropriation given anticipated federal funds or other funds. 2. Funds appropriated in this item may be used for support, local assistance, or capital outlay expenditures. 	
2660-014-0042—For transfer by the Controller, upon the order of the Director of Finance, from the State Highway Account, State Transportation Fund, to the General Fund.....	(107,634,000)
Provisions:	
<ul style="list-style-type: none"> 1. The funds transferred by this item are moneys from revenues that are not restricted by Article XIX of the California Constitution. 2. The Director of Finance shall not transfer any funds in this item that would result in a loss of federal funds or require the state to provide a re-fund to the federal government. 	

Item	Amount
3. The transfer of funds in this item shall constitute a reimbursement to the General Fund for debt service payments related to the general obligation bonds issued pursuant to the Clean Air and Transportation Improvement Bond Act of 1990 (Ch. 6 (commencing with Sec. 99690), Pt. 11.5, Div. 10, P.U.C.), the Passenger Rail and Clean Air Bond Act of 1990 (Ch. 17 (commencing with Sec. 2701), Div. 3, S.& H.C.), and the Seismic Retrofit Bond Act of 1996 (Ch. 12.48 (commencing with Sec. 8879), Div. 1, Title 2, Gov. C.).	
2660-014-0046—For transfer by the Controller, upon the order of the Director of Finance, from the Public Transportation Account, State Transportation Fund, to the State Highway Account, State Transportation Fund	(60,395,000)
Provisions: <ol style="list-style-type: none"> 1. The funds transferred by this item are moneys that are not restricted by Article XIX of the California Constitution and were transferred to the Public Transportation Account from the State Highway Account in the 2003–04 fiscal year pursuant to Section 183.1 of the Streets and Highways Code. 	
2660-021-0042—For transfer by the Controller from the State Highway Account, State Transportation Fund, to the Public Transportation Account, State Transportation Fund, as prescribed by Section 194 of the Streets and Highways Code	(21,600,000)
2660-023-0596—For transfer by the Controller from the Vincent Thomas Toll Revenue Fund to the Toll Bridge Seismic Retrofit Account, State Transportation Fund, pursuant to Section 188.5 of the Streets and Highways Code.....	(6,997,000)
Provisions: <ol style="list-style-type: none"> 1. It is the intent of the Legislature that the full amount of unencumbered funds in the Vincent Thomas Toll Revenue Fund be transferred to the Toll Bridge Seismic Retrofit Account. 	
2660-101-0042—For local assistance, Department of Transportation, State Transportation Improvement Program (STIP), payable from the State Highway Account, State Transportation Fund.....	61,879,000
Schedule: <ol style="list-style-type: none"> (1) 20.30-Highway Transportation— <ul style="list-style-type: none"> Local Assistance 57,007,000 	

Item	Amount
(a) Regional Improve- ments	(54,157,000)
(b) Interregional Im- provements	(2,850,000)
(2) 30-Mass Transportation	4,872,000
Provisions:	
1. Funds appropriated in this item shall be available for allocation by the California Transportation Commission through fiscal year 2006–07 and available for encumbrance and liquidation through June 30, 2010.	
2. Notwithstanding any other provision of law, funds appropriated in this item may be transferred intraschedule or to Items 2660-301-0042, 2660-102-0042, or 2660-302-0042. These transfers shall require the prior approval of the Department of Finance and the California Transportation Commission.	
3. Notwithstanding any other provision of law, funds appropriated in this item may be supplemented with federal funding appropriation authority and with prior year State Highway Account appropriation balances at a level determined by the department as required to process claims utilizing federal advance construction through the plan of financial adjustment process under Sections 11251 and 16365 of the Government Code.	
2660-101-0045—For local assistance, Department of Transportation, Program 20—Highway Transportation, payable from the Bicycle Transportation Account, State Transportation Fund	7,190,000
2660-101-0183—For local assistance, Department of Transportation, Program 20—Highway Transportation, payable from the Environmental Enhancement and Mitigation Demonstration Program Fund	5,000,000
2660-101-0890—For local assistance, Department of Transportation, State Transportation Improvement Program (STIP), payable from the Federal Trust Fund	99,394,000
Schedule:	
(1) 20-Highway Transportation	99,394,000
(a) Regional Improve- ments	(94,424,000)
(b) Interregional Im- provements	(4,970,000)

Item	Amount
Provisions:	
1. For purposes of the Streets and Highways Code, all expenditures from this item shall be deemed to be expenditures from the State Highway Account, State Transportation Fund.	
2. Federal funds may be received from any federal source and shall be deposited in the Federal Trust Fund. Any federal reimbursements shall be credited to the account from which the expenditures were originally made.	
3. Notwithstanding other provisions of law, funds appropriated in this item may be transferred intraschedule or to Items 2660-301-0890, 2660-302-0890, or 2660-102-0890. These transfers shall require the prior approval of the Department of Finance and the California Transportation Commission. These funds shall be available for allocation by the California Transportation Commission through fiscal year 2006–07.	
2660-102-0042—For local assistance, Department of Transportation, Non-State Transportation Improvement Program (STIP), payable from the State Highway Account, State Transportation Fund.....	99,504,000
Schedule:	
(1) 20-Highway Transportation.....	92,504,000
(a) Regional Surface Transportation Program Exchange.....	(46,000,000)
(b) Local Assistance.....	(46,504,000)
(2) 40-Transportation Planning.....	7,000,000
Provisions:	
1. Funds appropriated in Schedule (1) shall be available for allocation by the California Transportation Commission through fiscal year 2006–07 and available for encumbrance and liquidation through June 30, 2010.	
2. Notwithstanding other provisions of law, funds appropriated in this item may be transferred intraschedule or to Item 2660-301-0042, 2660-101-0042, or 2660-302-0042. These transfers shall require the prior approval of the Department of Finance and the California Transportation Commission.	

Item	Amount
2660-102-0890—For local assistance, Department of Transportation, Non-State Transportation Improvement Program (STIP), payable from the Federal Trust Fund.....	1,141,401,000
Schedule:	
(1) 20-Highway Transportation	1,040,340,000
(2) 30-Mass Transportation	55,061,000
(3) 40-Transportation Planning	46,000,000
Provisions:	
1. Notwithstanding other provisions of law, funds appropriated in this item may be transferred intra-schedule or to Items 2660-101-0890, 2660-301-0890, or 2660-302-0890. These transfers shall require the prior approval of the Department of Finance and the California Transportation Commission. Funds appropriated in Schedules (1) and (2) shall be available for allocation by the California Transportation Commission through fiscal year 2006–07.	
2. For Program 20—Highway Transportation. For purposes of the Streets and Highways Code, all expenditures from this item shall be deemed to be expenditures from the State Highway Account, State Transportation Fund.	
3. For Program 20—Highway Transportation. Federal funds may be received from any federal source and shall be deposited in the Federal Trust Fund. Any federal reimbursements shall be credited to the account from which the expenditures were originally made.	
2660-105-0046—For local assistance, Department of Transportation, Program 30-Mass Transportation, payable from the Public Transportation Account, State Transportation Fund, for water transit operations managed through the Metropolitan Transportation Commission	2,879,000
2660-295-0042—For local assistance, Department of Transportation, for reimbursement, in accordance with the provisions of Section 6 of Article XIII B of the California Constitution or Section 17561 of the Government Code, of the costs of any new program or increased level of service of an existing program mandated by statute or executive order, for disbursement by the Controller.....	1,000

Item Amount

Schedule:

- (1) 98.01.064—Airport Land Use Commissions/Plans (Ch. 644, Stats. 1994) 1,000

Provisions:

- 1. Except as provided in Provision 2 of this item, allocations of funds provided in this item to the appropriate local entities shall be made by the Controller in accordance with the provisions of each statute or executive order that mandates the reimbursement of the costs, and shall be audited to verify the actual amount of the mandated costs in accordance with subdivision (d) of Section 17561 of the Government Code. Audit adjustments to prior year claims may be paid from this item. Funds appropriated in this item may be used to provide reimbursement pursuant to Article 5 (commencing with Section 17615) of Chapter 4 of Part 7 of Division 4 of Title 2 of the Government Code.
- 2. If any of the scheduled amounts are insufficient to provide full reimbursement of costs, the Controller may, upon notifying the Director of Finance in writing, augment those deficient amounts from the unencumbered balance of any other scheduled amounts therein. No order may be issued pursuant to this provision unless written notification of the necessity therefor is provided to the chairperson of the committee in each house that considers appropriations and the Chairperson of the Joint Legislative Budget Committee or his or her designee.

2660-301-0042—For capital outlay, Department of Transportation, State Transportation Improvement Program (STIP), payable from the State Highway Account, State Transportation Fund..... 298,078,000

Schedule:

- (1) 20-Highway Transportation.....291,173,000
 - (a) Regional Improvements (177,616,000)
 - (b) Interregional Improvements(113,557,000)
- (2) 30-Mass Transportation 6,905,000

Provisions:

- 1. These funds shall be available for allocation by the California Transportation Commission through fiscal year 2006–07 and available for encumbrance and liquidation through June 30, 2010.

Item Amount

- 2. Notwithstanding any other provision of law, funds appropriated in this item may be transferred intraschedule or to Items 2660-101-0042, 2660-102-0042, or 2660-302-0042. These transfers shall require the prior approval of the Department of Finance and the California Transportation Commission.
- 3. Notwithstanding any other provision of law, funds appropriated in this item may be supplemented with federal funding appropriation authority and with prior year State Highway Account appropriation balances at a level determined by the department as required to process claims utilizing federal advance construction through the plan of financial adjustment process under Sections 11251 and 16365 of the Government Code.

2660-301-0890—For capital outlay, Department of Transportation, State Transportation Improvement Program (STIP), payable from the Federal Trust Fund 394,778,000

Schedule:

- (1) 20-Highway Transportation.....394,778,000
 - (a) Regional Improvements(240,815,000)
 - (b) Interregional Improvements(153,963,000)

Provisions:

- 1. Notwithstanding any other provision of law, amounts scheduled in this item may be transferred intraschedule or to Items 2660-101-0890, 2660-102-0890, or 2660-302-0890. These transfers shall require the prior approval of the Department of Finance and the California Transportation Commission. These funds shall be available for allocation by the California Transportation Commission through fiscal year 2006–07.
- 2. For purposes of the Streets and Highways Code, all expenditures from this item shall be deemed to be expenditures from the State Highway Account, State Transportation Fund.
- 3. Federal funds may be received from any federal source and shall be deposited in the Federal Trust Fund. Any federal reimbursements shall be credited to the account from which the expenditures were originally made.

Item	Amount
2660-302-0042—For capital outlay, Department of Transportation, Non-State Transportation Improvement Program (STIP), payable from the State Highway Account, State Transportation Fund.....	993,612,000
Schedule:	
(1) 20-Highway Transportation	1,693,612,000
(a) State Highway Operation and Protection Program	(1,693,612,000)
(2) Reimbursements	-700,000,000
Provisions:	
1. These funds shall be available for allocation by the California Transportation Commission through fiscal year 2006–07 and available for encumbrance and liquidation through June 30, 2010.	
2. Notwithstanding any other provision of law, funds appropriated in this item may be transferred to Item 2660-101-0042, 2660-102-0042, or 2660-301-0042. These transfers shall require the prior approval of the Department of Finance and the California Transportation Commission.	
3. The Director of Finance may increase this item pursuant to allocations made from tribal gaming bond revenues no sooner than 30 days after written notification of the allocation is provided to the chairpersons of the fiscal committees in each house of the Legislature and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the Chairperson of the Joint Legislative Budget Committee, or his or her designee, may determine.	
2660-302-0046—For capital outlay, Department of Transportation, payable from the Public Transportation Account, State Transportation Fund.....	36,000,000
Schedule:	
(1) 30-Mass Transportation	61,000,000
(2) Reimbursements	-25,000,000
Provisions:	
1. The Director of Finance may increase this item pursuant to allocations made from tribal gaming bond revenues no sooner than 30 days after written notification of the allocation is provided to the chairpersons of the fiscal committees in each house of the Legislature and the Chairperson of the Joint Legislative Budget Committee, or not	

Item	Amount
sooner than whatever lesser time the Chairperson of the Joint Legislative Budget Committee, or his or her designee, may determine.	
2660-302-0890—For capital outlay, Department of Transportation, Non-State Transportation Improvement Program (STIP), payable from the Federal Trust Fund.....	505,660,000
Schedule:	
(1) 20-Highway Transportation.....	505,660,000
(a) State Highway Operation and Protection Program.....	(505,660,000)
Provisions:	
1. Notwithstanding any other provision of law, amounts scheduled in this item may be transferred to Items 2660-101-0890, 2660-102-0890, or 2660-301-0890. These transfers shall require the prior approval of the Department of Finance and the California Transportation Commission. These funds shall be available for allocation by the California Transportation Commission through fiscal year 2006–07.	
2. For purposes of the Streets and Highways Code, all expenditures from this item shall be deemed to be expenditures from the State Highway Account, State Transportation Fund.	
3. Federal funds may be received from any federal source and shall be deposited in the Federal Trust Fund. Any federal reimbursements shall be credited to the account from which the expenditures were originally made.	
2660-311-0042—For capital outlay, Department of Transportation, payable from the State Highway Account, State Transportation Fund.....	1,438,000
Schedule:	
(1) 20-Highway Transportation.....	1,438,000
(a) 20.20.500-State-wide: Studies, pre-planning and budget packages.....	(100,000)
(b) 20.20.516-Oakland Seismic Retrofit Project: Preliminary plans	(1,338,000)

Item		Amount
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Provisions:

1. For Program 20—Highway Transportation. Up to 20 percent of the funds appropriated in this item may be transferred from Item 2660-301-0042 of this act to enable the California Transportation Commission to allocate supplemental funds to projects within this item. The transfer may be made only with the approval of the commission and the Department of Finance. The Department of Finance shall be notified of the transfer prior to the commission’s approval of any transfer or allocation of those funds to any project.
2. Notwithstanding any other provision of law, the project identified in Schedule (1)(b) of this item shall be subject to administrative oversight by the State Public Works Board.
3. Funds appropriated in this item are available to the Department of Transportation to purchase one modular office unit totaling 6,480 square feet in the City of Eureka, two modular office units totaling 9,270 square feet in the City of Redding, two modular office units totaling 8,540 square feet in the City of Stockton, and two modular units totaling 12,960 square feet in the City of Sacramento. The Department of Transportation is directed to redirect seven dollars (\$7) from its support appropriation for this purpose.

2660-398-0042—	For the Department of Transportation, for state operations, local assistance, or capital outlay, payable from the State Highway Account, State Transportation Fund.....	150,000,000
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Provisions:

1. Upon order of the Director of Finance, funds in this item are available for allocation to other State Highway Account items for expenditure, as specified in this provision, upon determination that the state will receive additional federal funds pursuant to the passage of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 or other federal transportation acts.
 - (a) Notwithstanding Section 28.50, the allocations may only be authorized not sooner than 30 days after notification in writing is provided to the chairperson of the committee in each house of the Legislature that considers

Item

Amount

appropriations and the Chairperson of the Joint Legislative Budget Committee, or his or her designee, may in each instance determine.

- (b) The following programs, activities, and projects will receive priority allocations of funds: not more than \$19,900,000 for Performance Measurement System information technology project; California Advanced Transportation Management System information technology project; Traffic Monitoring Stations analysis and repair; Freeway Service Patrol expansion; and matching funds for participation in a public/private partnership to deploy radar and microwave-based detection devices on state right-of-way; not more than \$32,400,000 for additional capital outlay staffing directly related to allocations from this item; and not more than \$250,000 for financial advisor services.
- (c) Information technology projects receiving an allocation of funds from this item must first obtain requisite approval of a feasibility study report prior to fund allocation.
- (d) Any funds allocated in this item and not used for expenditures defined in subdivision (b) shall be allocated to support State Transportation Improvement Program (STIP) and State Highway Operations and Protection Program (SHOPP) local assistance and capital outlay expenditures.

2. Notwithstanding any other provision of law, expenditure authority in this item may be transferred to Item 2660-398-0890, provided that total expenditure authority for this item and Item 2660-398-0890 does not exceed \$300,000,000 provided that the total amounts provided for the specific purposes listed in subdivision (b) of Provision 1 do not exceed the amounts specified therein. Transfers shall require the prior approval of the Director of Finance.

2660-398-0890—For the Department of Transportation, for state operations, local assistance, or capital outlay, payable from the Federal Trust Fund 150,000,000

Provisions:

- 1. Upon order of the Director of Finance, funds in this item are available for allocation to other federal fund items for expenditure, as specified in

Item

Amount

this provision, upon a determination that the state will receive additional federal funds pursuant to the passage of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 or other federal transportation acts.

- (a) Notwithstanding Section 28.50, the allocations may only be authorized not sooner than 30 days after notification in writing is provided to the chairperson of the committee in each house that considers appropriations and the Chairperson of the Joint Legislative Budget Committee or his or her designee may in each instance determine.
 - (b) The following programs, activities, and projects will receive priority allocations of funds: not more than \$19,900,000 for the Performance Measurement System information technology project; the California Advanced Transportation Management System information technology project; Traffic Monitoring Stations analysis and repair; Freeway Service Patrol expansion; and matching funds for participation in a public/private partnership to deploy radar and microwave based detection devices on state right-of-way; not more than \$32,400,000 for additional capital outlay staffing directly related to allocations from this item; and not more than \$250,000 for financial advisor services.
 - (c) Information technology projects receiving an allocation of funds from this item must first obtain requisite approval of a feasibility study report prior to fund allocation.
 - (d) Any funds allocated in this item and not used for expenditures defined in subdivision (b) shall be allocated to support State Transportation Improvement Program (STIP) and State Highway Operations and Protection Program (SHOPP) local assistance and capital outlay expenditures.
2. Notwithstanding any other provision of law, expenditure authority in this item may be transferred to Item 2660-398-0042, provided that total expenditure authority for this item and Item 2660-398-0042 does not exceed \$300,000,000 provided that the total amounts provided for the specific purposes listed in subdivision (b) of Provision 1 do

Item	Amount
not exceed the amounts specified therein. Transfers shall require the prior approval of the Department of Finance.	
2660-399-0042—For the Department of Transportation, for final cost accounting of projects for which appropriations have expired, for state operations, local assistance, or capital outlay, payable from the State Highway Account, State Transportation Fund. Funds appropriated in this item shall be available for expenditure until June 30, 2005	5,000,000
2660-399-0890—For the Department of Transportation, for state operations, local assistance, or capital outlay, payable from the Federal Trust Fund	31,000,000
Provisions:	
1. \$31,000,000 is available for Corridor Improvement and Formula Section 163 grants.	
2660-401—Notwithstanding any other provision of law, various items of appropriation in this act may be reduced, upon approval of the Director of Finance, if the equipment rental rates for 2004–05, charged by the Department of Transportation, Division of Equipment, to the department’s programs, would result in costs below the budgeted level. The following items of appropriation include funding for rental payments and may be reduced by an amount not to exceed the savings in each item attributable to reduced equipment rental rates: Item 2660-001-0041, Item 2660-001-0042, Item 2660-001-0046, Item 2660-001-0650, Item 2660-001-0890.	
2660-402—Before allocating projects in the 2004–05 fiscal year that would result in the issuance of notes pursuant to Section 14553 of the Government Code exceeding \$800,000,000, the California Transportation Commission shall consult with the Business, Transportation and Housing Agency, the Department of Transportation, and the Department of Finance pursuant to Section 14553.8 of the Government Code to consider and determine the appropriateness of the mechanism authorized by Section 14553 of the Government Code in comparison to other funding mechanisms, and to determine and report to the Governor and the Legislature the effect of issuance of the notes on future federal funding commitments. Allocations above \$800,000,000 shall not be made prior to providing 60 days notice to the chairpersons	

Item	Amount
of the transportation committees of each house and the Chairperson of the Joint Legislative Budget Committee.	
2660-490—Reappropriation, Department of Transportation. The balance of the appropriation provided in the following citation is reappropriated for the purposes provided for in that appropriation and shall be available for encumbrance and expenditure until June 30, 2006.	
0046—Public Transportation Account	
Item 2660-301-0046, Budget Act of 2001 (Ch. 106, Statutes of 2001)	
2660-491—Reappropriation, Department of Transportation. Notwithstanding any other provision of law, the unliquidated encumbrances for the appropriations provided in the following citations, are reappropriated until June 30, 2005. The unencumbered balance shall not be available for encumbrance.	
0042—State Highway Account	
(1) Item 2660-325-0042, Budget Act of 1996 (Ch. 162, Stats. 1996)	
(2) Item 2660-301-0042, Budget Act of 1997 (Ch. 282, Stats. 1997)	
(3) Item 2660-301-0042, Budget Act of 1998 (Ch. 324, Stats. 1998)	
0046—Public Transportation Account	
(1) Item 2660-125-046, Budget Act of 1993 (Ch. 55, Stats. 1993)	
(2) Item 2660-101-046, Budget Act of 1994 (Ch. 139, Stats. 1994)	
(3) Item 2660-125-046, Budget Act of 1994 (Ch. 139, Stats. 1994)	
(4) Item 2660-125-0046, Budget Act of 1996 (Ch. 162, Stats. 1996)	
0853—Petroleum Violation Escrow Account	
(1) Chapter 186, Statutes of 1986	
(2) Chapter 1427, Statutes of 1988	
(3) Chapter 1434, Statutes of 1988	
(4) Chapter 1648, Statutes of 1990	
(5) Chapter 960, Statutes of 1991	
(6) Item 2660-101-853, Budget Act of 1992 (Ch. 587, Stats. 1992)	
(7) Chapter 1159, Statutes of 1993	
(8) Chapter 980, Statutes of 1995	
0890—Federal Trust Fund	
(1) Item 2660-301-0890, Budget Act of 1996 (Ch. 162, Stats. 1996)	

Item	Amount
2660-492—Extension of liquidation period, Department of Transportation. The balance of the funds for the appropriations provided in the following citation is reappropriated for the purposes provided for in the appropriations and shall be available for liquidation until June 30, 2005.	
0042—State Highway Account, State Transportation Fund.	
(1) Item 2660-001-0042, Budget Act of 2000 (Ch. 52, Stats. 2000) as reappropriated by Item 2660-492, Budget Act of 2001 (Ch. 106, Stats. 2001), 50.10-Administration, up to \$5,253,000 shall be available for the Transportation Permits Management Systems Information Technology Project.	
(2) Item 2660-001-0042, Budget Act of 2001 (Ch. 106, Stats. 2001), as reappropriated by Item 2660-492, Budget Act of 2003 (Ch. 157, Stats. 2003), 20.10-Capital Outlay Support, \$7,057,000 shall be available for the Project Resourcing and Schedule Management System.	
Provisions:	
1. At the time the 2005–06 Governor’s Budget is submitted to the Legislature, the Department of Transportation shall report to the Chairperson of the Joint Legislative Budget Committee on the progress of developing and implementing the Project Resourcing and Schedule Management System. The report shall include, among other things, the revised project schedule, the activities completed to date, and the activities proposed to be funded by the 2005–06 Governor’s Budget.	
2660-493—Reappropriation, Department of Transportation. Notwithstanding any other provision of law, the appropriations in the following citations are reappropriated to enable the collection of outstanding federal reimbursements as of the end of June 30, 2004. These appropriations are not available for encumbrance or liquidation and shall revert on June 30, 2005:	
0890—Federal Trust Fund	
(1) Item 2660-001-890, Budget Act of 1987 (Ch. 135, Stats. 1987)	
(2) Item 2660-001-890, Budget Act of 1988 (Ch. 313, Stats. 1988)	
(3) Item 2660-001-890, Budget Act of 1989 (Ch. 93, Stats. 1989)	

Item	Amount
(4) Item 2660-001-890, Budget Act of 1990 (Ch. 467, Stats. 1990)	
(5) Item 2660-001-890, Budget Act of 1991 (Ch. 118, Stats. 1991)	
(6) Item 2660-001-890, Budget Act of 1992 (Ch. 587, Stats. 1992)	
(7) Item 2660-001-890, Budget Act of 1993 (Ch. 55, Stats. 1993)	
(8) Item 2660-001-890, Budget Act of 1994 (Ch. 139, Stats. 1994)	
(9) Item 2660-001-890, Budget Act of 1995 (Ch. 303, Stats. 1995)	
(10) Item 2660-301-890, Budget Act of 1992 (Ch. 587, Stats. 1992)	
(11) Item 2660-001-0890, Budget Act of 1996 (Ch. 162, Stats. 1996)	
(12) Item 2660-001-0890, Budget Act of 1997 (Ch. 282, Stats. 1997)	
(13) Item 2660-001-0890, Budget Act of 1998 (Ch. 324, Stats. 1998)	
(14) Item 2660-001-0890, Budget Act of 1999 (Ch. 50, Stats. 1999)	
2660-496—Reversion, Department of Transportation, as of June 30, 2004, the following appropriation amounts in the following citations shall revert to the fund from which the appropriation was made.	
0042—State Highway Account	
(1) Item 2660-102-0042, Budget Act of 2003 (Ch. 157, Stats. 2003), 20.30- Highway Transportation—Local Assistance.....	165,000
0890—Federal Trust Fund	
(1) Item 2660-102-0890, Budget Act of 2003 (Ch. 157, Stats. 2003), 20.30- Highway Transportation—Local Assistance.....	660,000
2665-001-0046—For support of High-Speed Rail Au- thority, Program 10-High-Speed Rail Authority, pay- able from the Public Transportation Account, State Transportation Fund.....	1,819,000
Provisions:	
1. Of the funds appropriated in this item, \$300,000 may be used only for the legal defense of the final Environmental Impact Report/Environmental Im- pact Statement.	

Item	Amount
2700-001-0044—For support of Office of Traffic Safety, payable from the Motor Vehicle Account, State Transportation Fund.....	392,000
Schedule:	
(1) 10-California Traffic Safety	58,386,000
(2) Amount payable from the Federal Trust Fund (Item 2700-001-0890).—	57,994,000
2700-001-0890—For support of Office of Traffic Safety, for payment to Item 2700-001-0044, payable from the Federal Trust Fund, not subject to the provisions of Section 28.00	57,994,000
2700-101-0890—For local assistance, Office of Traffic Safety, payable from the Federal Trust Fund, not subject to the provisions of Section 28.00	26,384,000
2720-001-0042—For support of Department of the California Highway Patrol, for payment to Item 2720-001-0044, payable from the State Highway Account, State Transportation Fund	46,783,000
2720-001-0044—For support of Department of the California Highway Patrol, payable from the Motor Vehicle Account, State Transportation Fund.....	1,171,517,000
Schedule:	
(1) 10-Traffic Management.....	1,128,797,000
(2) 20-Regulation and Inspection	141,161,000
(3) 30-Vehicle Ownership Security	31,223,000
(4) 40.01-Administration.....	151,688,000
(5) 40.02-Distributed Administration	-151,688,000
(6) Reimbursements.....	-64,322,000
(7) Amount payable from the State Highway Account (Item 2720-001-0042).....	-46,783,000
(8) Amount payable from the Motor Carrier Safety Improvement Fund (Item 2720-001-0293)	-1,275,000
(9) Amount payable from the California Motorcyclist Safety Fund (Item 2720-001-0840)	-1,425,000
(10) Amount payable from the Federal Trust Fund (Item 2720-001-0890).....	-13,585,000
(11) Amount payable from the Hazardous Substance Account, Special Deposit Fund (Item 2720-001-0942).....	-206,000

Item	Amount
(12) Amount payable from the Asset Forfeiture Account, Special Deposit Fund (Item 2720-011-0942).....	-2,068,000
2720-001-0293—For support of Department of the California Highway Patrol, for payment to Item 2720-001-0044, payable from the Motor Carrier Safety Improvement Fund	1,275,000
2720-001-0840—For support of Department of the California Highway Patrol, for payment to Item 2720-001-0044, payable from the California Motorcyclist Safety Fund.....	1,425,000
2720-001-0890—For support of Department of the California Highway Patrol, for payment to Item 2720-001-0044, payable from the Federal Trust Fund.....	13,585,000
2720-001-0942—For support of Department of the California Highway Patrol, for payment to Item 2720-001-0044, payable from the Hazardous Substance Account, Special Deposit Fund	206,000
2720-003-0044—For support of Department of the California Highway Patrol for rental payments on lease-revenue bonds, payable from Motor Vehicle Account, State Transportation Fund.....	953,000
Schedule:	
(1) Base Rental and Fees	953,000
(2) Insurance	4,000
(3) Reimbursements.....	-4,000
Provisions:	
1. The Controller shall transfer funds appropriated in this item according to a schedule to be provided by the State Public Works Board. The schedule shall be provided on a monthly basis or as otherwise might be needed to ensure debt requirements are met.	
2720-011-0942—For support of Department of the California Highway Patrol, for payment to Item 2720-001-0044, payable from the Asset Forfeiture Account, Special Deposit Fund	2,068,000
2720-012-0903—For transfer by the Controller from the State Penalty Fund to the California Motorcyclist Safety Fund.....	(250,000)
2720-021-0044—For Department of the California Highway Patrol, for advance authority for the department to incur automotive equipment purchase obligations in an amount not to exceed \$5,000,000 during the	

Item	Amount
2004-05 fiscal year, for delivery beginning in the 2005-06 fiscal year, payable from the Motor Vehicle Account, State Transportation Fund.....	(5,000,000)
2720-101-0974—For local assistance, Department of California Highway Patrol, payable from the Peace Officer Memorial Foundation Fund.....	400,000
2720-301-0044—For capital outlay, Department of the California Highway Patrol, payable from the Motor Vehicle Account, State Transportation Fund.....	250,000
Schedule:	
(1) 50.02.002-Headquarters Relocation Study.....	250,000
2740-001-0042—For support of Department of Motor Vehicles, for payment to Item 2740-001-0044, payable from the State Highway Account, State Transportation Fund.....	37,500,000
2740-001-0044—For support of Department of Motor Vehicles, payable from the Motor Vehicle Account, State Transportation Fund.....	391,022,000
Schedule:	
(1) 11-Vehicle/Vessel Identification and Compliance.....	405,691,000
(2) 22-Driver Licensing and Personal Identification	182,372,000
(3) 25-Driver Safety	92,428,000
(4) 32-Occupational Licensing and Investigative Services.....	39,015,000
(5) 35-New Motor Vehicle Board.....	1,780,000
(6) 41.01-Administration.....	85,758,000
(7) 41.02-Distributed Administration ...	-85,758,000
(8) Reimbursements.....	-12,842,000
(9) Amount payable from the State Highway Account, State Transportation Fund (Item 2740-001-0042).....	-37,500,000
(10) Amount payable from the New Motor Vehicle Board Account (Item 2740-001-0054)	-1,780,000
(11) Amount payable from the Motor Vehicle License Fee Account, Transportation Tax Fund (Item 2740-001-0064).....	-275,689,000
(12) Amount payable from the Harbors and Watercraft Revolving Fund (Item 2740-001-0516)	-2,453,000

Item	Amount
2740-001-0054—For support of Department of Motor Vehicles, for payment to Item 2740-001-0044, payable from the New Motor Vehicle Board Account ..	1,780,000
2740-001-0064—For support of Department of Motor Vehicles, for payment to Item 2740-001-0044, payable from the Motor Vehicle License Fee Account, Transportation Tax Fund	275,689,000
2740-001-0516—For support of Department of Motor Vehicles, for payment to Item 2740-001-0044, payable from the Harbors and Watercraft Revolving Fund	2,453,000
Provisions:	
1. The funds appropriated in this item are for undocumented vessel registration and fee collection.	
2740-301-0042—For capital outlay, Department of Motor Vehicles, for payment to Item 2740-301-0044, payable from the State Highway Account, State Transportation Fund.....	544,000
2740-301-0044—For capital outlay, Department of Motor Vehicles, payable from the Motor Vehicle Account, State Transportation Fund	4,726,000
Schedule:	
(1) 71.03.020-Sacramento Headquarters: 5th Floor Asbestos Removal and Seismic Retrofit—Construction	7,511,000
(2) 71.03.024—Sacramento Headquarters: 6th Floor Asbestos Removal, Seismic Retrofit, and Building Re-skin—Preliminary plans.....	1,352,000
(3) Amount payable from the State Highway Account, State Transportation Fund (Item 2740-301-0042).....	-544,000
(4) Amount payable from the Motor Vehicle License Fee Account, Transportation Tax Fund (Item 2740-301-0064)	-3,593,000
2740-301-0064—For capital outlay, Department of Motor Vehicles, for payment to Item 2740-301-0044, payable from the Motor Vehicle License Fee Account, Transportation Tax Fund.....	3,593,000
2780-001-0683—For support of Stephen P. Teale Data Center, payable from the Stephen P. Teale Data Center Revolving Fund.....	101,063,000

Item		Amount
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Provisions:

1. Notwithstanding any other provision of law, the Director of Finance may authorize expenditures for the Stephen P. Teale Data Center in excess of the amount appropriated not sooner than 30 days after notification in writing of the necessity therefor is provided to the chairpersons of the fiscal committees in each house of the Legislature and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the chairperson of the committee, or his or her designee, may in each instance determine.
2. Expenditure authority provided in this item to support data center infrastructure projects may not be utilized for items outside the approved project scope. In addition, the data center shall report to the Department of Finance actual expenditures associated with the projects when purchase agreements have been executed.
3. On or before September 1, 2004, the Stephen P. Teale Data Center, or its successor entity, shall submit to the Department of Finance and the Legislative Analyst's Office a report detailing the cost factors reflected in the 2004-05 rates. This report shall include (a) a statement of the department's expenditures and revenues, by function, (b) information detailing the incremental changes to rates between fiscal years, including the reason for, and aggregate amount of, the change, and (c) for each client department the actual amounts charged in 2002-03, 2003-04, and proposed in 2004-05. The Department of Finance shall use this report to review the current methodologies used to set rates and shall provide a report of its findings as part of the 2005-06 Governor's Budget.

RESOURCES

3110-001-0140—	For support of Special Resources Program, Program 30—Sea Grant Program, payable from the California Environmental License Plate Fund, for grants to public and private higher education for use as a maximum of two-thirds of the local matching share for projects under the National Sea Grant College Program Act, as amended	200,000
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Item	Amount
3110-101-0071—For local assistance, Special Resources Program, Program 20—Yosemite Foundation, payable from the Yosemite Foundation Account, California Environmental License Plate Fund	840,000
Provisions:	
1. There is hereby appropriated to the Special Resources Program for allocation by the State Controller to the Yosemite Foundation all moneys deposited in the account for activities authorized pursuant to Section 5064 of the Vehicle Code (Chapter 1273, Statutes of 1992).	
3110-101-0140—For local assistance, Special Resources Program, Program 10—Tahoe Regional Planning Agency, payable from the California Environmental License Plate Fund	3,231,000
3110-101-0516—For local assistance, Special Resources Program, Program 10—Tahoe Regional Planning Agency, payable from the Harbors and Watercraft Revolving Fund.....	124,000
Provisions:	
1. Notwithstanding any other provision of law, funds in this item shall be expended to implement motorized watercraft regulations adopted by the Tahoe Regional Planning Agency.	
3125-001-0001—For support of California Tahoe Conservancy	0
Schedule:	
(1) 10-Tahoe Conservancy	4,384,000
(2) Reimbursements.....	-60,000
(3) Amount payable from the Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Fund (Item 3125-001-0005).	-144,000
(4) Amount payable from the California Environmental License Plate Fund (Item 3125-001-0140).....	-2,742,000
(5) Amount payable from the Habitat Conservation Fund (Item 3125-001-0262)	-62,000
(6) Amount payable from the Lake Tahoe Conservancy Account (Item 3125-001-0286)	-232,000
(7) Amount payable from the Tahoe Conservancy Fund (Item 3125-001-0568)	-186,000

Item	Amount
(8) Amount payable from the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Fund (Item 3125-001-6029).....	-603,000
(9) Amount payable from the Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002 (Item 3125-001-6031)	-355,000
3125-001-0005—For support of California Tahoe Conservancy, for payment to Item 3125-001-0001, payable from the Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Fund...	144,000
3125-001-0140—For support of California Tahoe Conservancy, for payment to Item 3125-001-0001, payable from the California Environmental License Plate Fund.....	2,742,000
3125-001-0262—For support of California Tahoe Conservancy, for payment to Item 3125-001-0001, payable from the Habitat Conservation Fund	62,000
3125-001-0286—For support of California Tahoe Conservancy, for payment to Item 3125-001-0001, payable from the Lake Tahoe Conservancy Account	232,000
3125-001-0568—For support of California Tahoe Conservancy, for payment to Item 3125-001-0001, payable from the Tahoe Conservancy Fund.....	186,000
Provisions:	
1. Of this amount, pursuant to Section 66908.3 of the Government Code, the conservancy shall pay \$44,900 to the County of Placer, and \$1,600 to the County of El Dorado.	
2. Fifty percent of the amounts pursuant to Provision 1 above shall be used by the Counties of Placer and El Dorado for soil erosion control projects in the Lake Tahoe region, as defined in Section 66905.5 of the Government Code.	
3125-001-6029—For support of California Tahoe Conservancy, for payment to Item 3125-001-0001, payable from the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Fund	603,000
3125-001-6031—For support of California Tahoe Conservancy, for payment to Item 3125-001-0001, payable from the Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002	355,000

Item	Amount
3125-101-6029—For local assistance, California Tahoe Conservancy, payable from the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Fund	3,000,000
Schedule:	
(1) 10-Tahoe Conservancy	3,000,000
Provisions:	
1. The acquisition of real property or an interest in real property with funds appropriated in this item is not subject to the Property Acquisition Law when the value is \$250,000 or less, and, therefore, is not subject to approval by the State Public Works Board.	
2. The amount appropriated in this item is available for expenditure for capital outlay or local assistance. Expenditures of funds for grants to public agencies and grants to nonprofit organizations, as authorized by subdivision (a) of Section 66907.7 of the Government Code, are exempt from review of the State Public Works Board.	
3. This appropriation shall be available for expenditure until June 30, 2007.	
3125-101-6031—For local assistance, California Tahoe Conservancy, payable from the Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002	9,000,000
Schedule:	
(1) 10-Tahoe Conservancy	9,000,000
Provisions:	
1. The acquisition of real property or an interest in real property with funds appropriated in this item is not subject to the Property Acquisition Law when the value is \$250,000 or less, and, therefore, is not subject to approval by the State Public Works Board.	
2. The amount appropriated in this item is available for expenditure for capital outlay or local assistance. Expenditures of funds for grants to public agencies and grants to nonprofit organizations, as authorized by subdivision (a) of Section 66907.7 of the Government Code, are exempt from review of the State Public Works Board.	
3. This appropriation shall be available for expenditure until June 30, 2007.	
3125-301-0262—For capital outlay, California Tahoe Conservancy, payable from the Habitat Conservation Fund	438,000

Item	Amount
Schedule:	
(1) 50.30.003-Acquisition, restoration, and enhancement of habitat.....	438,000
Provisions:	
1. The acquisition of real property or interests with funds appropriated by this item is not subject to the Property Acquisition Law when the value is less than \$250,000 and, therefore, is not subject to Public Works Board approval.	
2. The amount appropriated in this item is available for expenditure for capital outlay or for local assistance until June 30, 2007. Expenditures of funds for grants to public agencies and grants to nonprofit organizations, as authorized by subdivision (a) of Section 66907.7 of the Government Code, are exempt from Public Works Board review.	
3125-301-0286—For capital outlay, California Tahoe Conservancy, payable from the Lake Tahoe Conservancy Account.....	754,000
Schedule:	
(1) 50.30.002-Land acquisition and site improvements—Public access and recreation pursuant to Title 7.42 (commencing with Section 66905) of the Government Code	566,000
(2) 50.30.004-Land acquisition and site improvements—stream environment zones and watershed restorations pursuant to Title 7.42 (commencing with Section 66905) of the Government Code	565,000
(3) Reimbursements.....	-377,000
Provisions:	
1. The acquisition of real property or interests with funds appropriated by this item is not subject to the Property Acquisition Law when the value is less than \$250,000 and, therefore, is not subject to Public Works Board approval.	
2. The amount appropriated in this item is available for expenditure for capital outlay or for local assistance until June 30, 2007. Expenditures of funds for grants to public agencies and grants to nonprofit organizations, as authorized by subdivision (a) of Section 66907.7 of the Government Code, are exempt from Public Works Board review.	

Item	Amount
3125-301-6029—For capital outlay, California Tahoe Conservancy, payable from the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Fund.....	6,922,000
Schedule:	
(1) 50.30.002-For land acquisition and site improvements for public access and recreation pursuant to Title 7.42 (commencing with Section 66905) of the Government Code.....	1,223,000
(2) 50.30.003-For land acquisition and site improvements for wildlife enhancement pursuant to Title 7.42 (commencing with Section 66905) of the Government Code.....	712,000
(3) 50.30.004-For land acquisition and site improvements for stream environment zones and watershed restorations pursuant to Title 7.42 (commencing with Section 66905) of the Government Code.....	3,713,000
(4) 50.30.005-For land acquisitions pursuant to Title 7.42 (commencing with Section 66905) of the Government Code.....	1,500,000
(5) Reimbursements.....	-226,000
Provisions:	
1. The acquisition of real property or an interest in real property with funds appropriated in this item is not subject to the Property Acquisition Law when the value is \$250,000 or less, and, therefore, is not subject to approval by the State Public Works Board.	
2. The amount appropriated in this item is available for expenditure for capital outlay or local assistance. Expenditures of funds for grants to public agencies and grants to nonprofit organizations, as authorized by subdivision (a) of Section 66907.7 of the Government Code, are exempt from the review of the State Public Works Board.	
3. The amount appropriated in this item is available for expenditure until June 30, 2007.	
3340-001-0001—For support of California Conservation Corps	25,373,000

Item Amount

Schedule:

- (1) 10-Training and Work Program..... 57,256,000
- (2) 10.55-Administration..... (5,964,000)
- (3) 10.55-Distributed Administration..... (-5,964,000)
- (3.5) Amount payable from the Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Fund (Item 3340-001-0005). -633,000
- (4) Amount payable from the California Environmental License Plate Fund (Item 3340-001-0140)..... -315,000
- (5) Amount payable from the Public Resources Account, Cigarette and Tobacco Products Surtax Fund (Item 3340-001-0235) -291,000
- (6) Amount payable from the Collins-Dugan California Conservation Corps Reimbursement Account (Item 3340-001-0318)-29,420,000
- (7) Amount payable from the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Fund (Item 3340-001-6029)..... -1,224,000

Provisions:

1. Of the funds appropriated in this item, \$2,725,000 shall be available for use by the California Conservation Corps to respond to natural disasters and other emergencies, including the fighting of forest fires. The Director of Finance may adjust this amount to the extent indicated by corrections identified by the director in the reports of the past expenditures of the California Conservation Corps upon which the amounts appropriated by this item are based. The Director of Finance shall notify the Chairperson of the Joint Legislative Budget Committee at least 30 days prior to making that adjustment.
2. To the extent that funds in excess of the amount identified in Provision 1 are necessary in order for the California Conservation Corps to respond to one or more emergencies declared by the Governor, the Department of Finance shall transfer, from the funds available pursuant to Section 8690.6 of the Government Code, an amount not to exceed \$1,500,000 as necessary to fund that re-

Item	Amount
<p>ponse. If, after the Department of Finance has transferred funds pursuant to this provision, the California Conservation Corps receives reimbursements or other amounts in payment of its costs of response to one or more declared emergencies, those amounts shall be deposited in the General Fund.</p>	
<p>3340-001-0005—For support of California Conservation Corps, for payment to Item 3340-001-0001, payable from the Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Fund.....</p>	633,000
<p>Provisions:</p> <p>1. Of the funds appropriated in this item, \$25,000 shall be used to support a partnership between the California Conservation Corps and California Department of Forestry and Fire Protection for prescribed fuels management fire activities.</p>	
<p>3340-001-0140—For support of California Conservation Corps, for payment to Item 3340-001-0001, payable from the California Environmental License Plate Fund</p>	315,000
<p>3340-001-0235—For support of California Conservation Corps, for payment to Item 3340-001-0001, payable from the Public Resources Account, Cigarette and Tobacco Products Surtax Fund</p>	291,000
<p>3340-001-0318—For support of California Conservation Corps, for payment to Item 3340-001-0001, payable from the Collins-Dugan California Conservation Corps Reimbursement Account</p>	29,420,000
<p>Provisions:</p> <p>1. Notwithstanding Section 14316 of the Public Resources Code, the Department of Finance may make a loan from the General Fund to the Collins-Dugan California Conservation Corps reimbursement account for the purposes of this item, in the amount of 25 percent of the reimbursements anticipated in the Collins-Dugan California Conservation Corps Reimbursement Account to be received by the California Conservation Corps from each client agency, not to exceed an aggregate total of \$7,355,000 to meet cashflow needs due to delays in collecting reimbursements. Any loan made by the Department of Finance pursuant to this provision shall only be made if the California Conservation Corps has a valid contract or certification signed by the client agency, which demonstrates that sufficient funds will be available to</p>	

Item	Amount
<p>repay the loan. All moneys so transferred shall be repaid to the General Fund as soon as possible, but not later than one year from the date of the loan. On and after a date of 90 days after the end of that year, the Department of Finance shall charge interest to the California Conservation Corps, at the rate earned in the Pooled Money Investment Fund, on any portion of the loan that has not been repaid.</p> <p>2. Of the funds appropriated in this item, \$1,480,000 is for support of the fuels management partnership between the California Conservation Corps and California Department of Forestry and Fire Protection. The intent of this partnership is to provide fire and fuel reduction training to 75 corps members and to actively engage the California Conservation Corps in the Sierra Nevada Forest Land and Fuels Management Program within the Department of Forestry and Fire Protection. Of the \$1,480,000 appropriated in this item for the partnership, \$600,000 shall be for reimbursements for activities in the California Department of Forestry and Fire Protection’s Prefire Management Program funded by Proposition 40, \$310,000 shall be for reimbursements from the Workforce Investment Act funding to support training activities for corps members, \$25,000 shall be for reimbursements for prescribed fire activities under the direction of the department and funded by Proposition 40, and \$545,000 shall be for any additional reimbursements necessary to support the participation of corps members in the partnership.</p>	
3340-001-6029—For support of California Conservation Corps, for payment to Item 3340-001-0001, payable from the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Fund..	1,224,000
3340-101-0005—For local assistance, California Conservation Corps, payable from the Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Fund	2,550,000
3340-101-6029—For local assistance, California Conservation Corps, payable from the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Fund	4,003,000

Item	Amount
3340-490—Reappropriation, California Conservation Corps. Notwithstanding any other provision of law, the balance of the appropriations provided in the following citations are reappropriated for the purposes and subject to the limitations, unless otherwise specified, provided for in the appropriations: 0660—Public Buildings Construction Fund (1) Item 3340-301-0660, Budget Act of 2003 (Ch. 157, Stats. 2003) (1) 20.10.170-Tahoe Base Center Relocation—Preliminary plans and working drawings Provisions: 1. Notwithstanding Section 2.00 of the Budget Act, the funds appropriated in this item shall be available for expenditure until June 30, 2005, except appropriations for working drawings which shall be available for expenditure until June 30, 2006.	
3360-001-0044—For support of Energy Resources Conservation and Development Commission, for payment to Item 3360-001-0465, payable from the Motor Vehicle Account, State Transportation Fund	127,000
3360-001-0381—For support of Energy Resources Conservation and Development Commission, for payment to Item 3360-001-0465, payable from the Public Interest Research, Development and Demonstration Fund	69,147,000
Provisions: 1. Notwithstanding subdivision (a) of Section 2.00 of this act, funds appropriated in this item shall be available for expenditure during the 2004–05 and 2005–06 fiscal years. 2. Notwithstanding Section 16304.1 of the Government Code, funds appropriated in this item shall be available for liquidation of encumbrances until June 30, 2010. 3. Notwithstanding any other provision of law, funds appropriated in this item may be used by the Energy Resources Conservation and Development Commission to provide grants, loans, or repayable research contracts. When the commission evaluates proposals, a high-point scoring method may be used in lieu of lowest cost. Repayment terms shall be determined by the commission. 4. Of the amount appropriated in this item, \$200,000 shall be made available for grants to the California Climate Action Registry to support program activities.	

Item	Amount
3360-001-0382—For support of Energy Resources Conservation and Development Commission, for payment to Item 3360-001-0465, payable from the Renewable Resource Trust Fund	3,946,000
3360-001-0465—For support of Energy Resources Conservation and Development Commission, payable from the Energy Resources Programs Account	46,204,000
Schedule:	
(1) 10-Regulatory and Planning.....	26,933,000
(2) 20-Energy Resources Conservation.	16,655,000
(3) 30-Development.....	92,192,000
(4) 40.01-Policy, Management and Administration.....	10,951,000
(5) 40.02-Distributed Policy, Management and Administration	-10,951,000
(6) Reimbursements.....	-5,745,000
(7) Amount payable from the Motor Vehicle Account, State Transportation Fund (Item 3360-001-0044)...	-127,000
(8) Amount payable from the Public Interest Research, Development and Demonstration Fund (Item 3360-001-0381)	-69,147,000
(9) Amount payable from the Renewable Resource Trust Fund (Item 3360-001-0382)	-3,946,000
(10) Amount payable from the Energy Technologies Research Development and Demonstration Account (Item 3360-001-0479)	-550,000
(11) Amount payable from the Local Government Geothermal Resources Revolving Subaccount, GRDA (Item 3360-001-0497).....	-342,000
(12) Amount payable from the Petroleum Violation Escrow Account (Item 3360-001-0853)	-198,000
(13) Amount payable from the Federal Trust Fund (Item 3360-001-0890).	-8,906,000
(14) Amount payable from the Energy Facility License and Compliance Fund (Item 3360-001-3062).....	-615,000
Provisions:	
1. Notwithstanding Section 16304.1 of the Government Code, funds appropriated in this item for the	

Item	Amount
Energy Technology Export Program shall be available for liquidation of encumbrances until June 30, 2008.	
3360-001-0479—For support of Energy Resources Conservation and Development Commission, for payment to Item 3360-001-0465, payable from the Energy Technologies Research, Development and Demonstration Account for the purpose of funding loans, grants and contracts to provide a variety of research projects.....	550,000
Provisions:	
1. Notwithstanding subdivision (a) of Section 2.00 of this act, funds appropriated in this item shall be available for expenditure during the 2004–05 and 2005–06 fiscal years.	
2. Notwithstanding Section 16304.1 of the Government Code, funds appropriated in this item shall be available for liquidation of encumbrances until June 30, 2008.	
3. Notwithstanding any other provision of law, funds appropriated in this item may be used by the Energy Resources Conservation and Development Commission to provide grants, loans, or repayable research contracts. When the commission evaluates proposals, a high-point scoring method may be used in lieu of lowest cost. Repayment terms shall be determined by the commission.	
3360-001-0497—For support of Energy Resources Conservation and Development Commission, for payment to Item 3360-001-0465, payable from the Local Government Geothermal Resources Revolving Subaccount, GRDA	342,000
3360-001-0853—For support of Energy Resources Conservation and Development Commission, for payment to Item 3360-001-0465, payable from the Petroleum Violation Escrow Account	198,000
3360-001-0890—For support of Energy Resources Conservation and Development Commission, for payment to Item 3360-001-0465, payable from the Federal Trust Fund.....	8,906,000
3360-001-3062—For support of Energy Resources Conservation and Development Commission, for payment to Item 3360-001-0465, payable from the Energy Facility License and Compliance Fund	615,000
3360-011-0465—For transfer by the Controller, upon order of the Director of Finance, from the Energy Resources Programs Account to the General Fund.....	(12,000,000)

Item	Amount
3360-101-0497—For local assistance, Energy Resources Conservation and Development Commission, pursuant to Section 3822 of the Public Resources Code, payable from the Local Government Geothermal Resources Revolving Subaccount, GRDA.....	3,200,000
Schedule:	
(1) 30-Development.....	3,200,000
Provisions:	
1. Funds appropriated in this item shall be available for expenditure until June 30, 2006.	
2. Notwithstanding Section 16304.1 of the Government Code, funds appropriated in this item shall be available for liquidation until June 30, 2008.	
3360-490—Reappropriation, Energy Resources Conservation and Development Commission. Funds appropriated in the following citation are reappropriated for the purposes and subject to the limitations, unless otherwise specified, provided for in that appropriation, and shall be available for encumbrance and expenditure until June 30, 2005:	
0853—Petroleum Violation Escrow Account	
(1) \$925,000 from Item 3360-001-0853, Budget Act of 2000 (Ch. 52, Stats. 2000), for a gaseous hydrogen fueling station to be developed by the Alameda-Contra Costa Transit District	
3360-495—Reversion, Energy Resources Conservation and Development Commission. The following amounts shall revert to the General Fund as of June 30, 2004:	
(1) \$22,451,820 from Section 5 of Chapter 7 of the Statutes of 2001, First Extraordinary Session, as amended by Section 57 of Chapter 111 of the Statutes of 2001, consisting of unencumbered funds and unliquidated encumbered balances that have not been committed to specific projects.	
(2) \$3,915,954 from Section 8 of Chapter 329 of the Statutes of 2000, consisting of unencumbered funds and unliquidated encumbered balances that have not been committed to specific projects.	
(3) \$832,226 from Item 3360-001-0001 of Chapter 106 of the Statutes of 2001, consisting of unencumbered funds and unliquidated encumbered balances that have not been committed to specific projects.	

Item	Amount
3460-001-0001—For support of Colorado River Board of California	0
Schedule:	
(1) 10-Protection of California's Colorado River Rights and Interests	1,170,000
(2) Reimbursements	-1,170,000
3480-001-0001—For support of Department of Conservation	3,790,000
Schedule:	
(1) 10-Geologic Hazards and Mineral Resources Conservation	26,064,000
(2) 20-Oil, Gas, and Geothermal Resources	14,544,000
(3) 30-Land Resource Protection	3,759,000
(4) 40.01-Administration	10,209,000
(5) 40.02-Distributed Administration	-10,209,000
(6) 50-Beverage Container Recycling and Litter Reduction Program	31,756,000
(7) Reimbursements	-8,502,000
(8) Amount payable from the Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Fund (Item 3480-001-0005).	-520,000
(9) Amount payable from the Surface Mining and Reclamation Account (Item 3480-001-0035)	-1,143,000
(10) Amount payable from the State Highway Account, State Transportation Fund (Item 3480-001-0042).	-12,000
(11) Amount payable from the California Beverage Container Recycling Fund (Item 3480-001-0133).....	-31,681,000
(12) Amount payable from the Soil Conservation Fund (Item 3480-001-0141)	-2,036,000
(13) Amount payable from the Hazardous and Idle-Deserted Well Abatement Fund (Section 3206, Public Resources Code)	-100,000
(14) Amount payable from the Mine Reclamation Account (Item 3480-001-0336)	-2,700,000
(15) Amount payable from the Strong Motion Instrumentation and Seismic Hazards Mapping Fund (Item 3480-001-0338)	-7,966,000

Item	Amount
(16) Amount payable from the Federal Trust Fund (Item 3480-001-0890).	-1,687,000
(17) Amount payable from the Bosco Keene Renewable Resources Investment Fund (Item 3480-001-0940).....	-778,000
(17.5) Amount payable from the Abandoned Mine Reclamation and Mineral Fund Subaccount, Mine Reclamation Account (Item 3480-001-3025).....	-400,000
(18) Amount payable from the Oil, Gas, and Geothermal Administrative Fund (Item 3480-001-3046)...	-13,624,000
(19) Amount payable from the Agriculture and Open Space Mapping Subaccount (Item 3480-001-6004).....	-430,000
(20) Amount payable from the California Clean Water, Clean Air, Safe Neighborhood Parks and Coastal Protection Fund of 2002 (Item 3480-001-6029)	-529,000
(21) Amount payable from the Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002 (Item 3480-001-6031)	-225,000
Provisions:	
1. Notwithstanding any other provision of law, upon approval and order of the Department of Finance, the Department of Conservation may borrow sufficient funds, from special funds that otherwise provide support for the department, to meet cashflow needs due to delays in collecting reimbursements. Any loan made by the Department of Finance pursuant to this provision may be made only if the Department of Conservation has a valid contract or certification signed by the client agency, which demonstrates that sufficient funds will be available to repay the loan. All money so transferred shall be repaid to the special fund as soon as possible, but not later than one year from the date of the loan.	
3480-001-0005—For support of Department of Conservation, for payment to Item 3480-001-0001, payable from the Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Fund.....	520,000

Item	Amount
3480-001-0035—For support of Department of Conservation, for payment to Item 3480-001-0001, payable from the Surface Mining and Reclamation Account	1,143,000
3480-001-0042—For support of Department of Conservation, for payment to Item 3480-001-0001, payable from the State Highway Account, State Transportation Fund	12,000
Provisions:	
1. The funds appropriated in this item are for the state's share of costs of the California Institute of Technology seismograph network.	
3480-001-0133—For support of Department of Conservation, for payment to Item 3480-001-0001, payable from the California Beverage Container Recycling Fund	31,681,000
3480-001-0141—For support of Department of Conservation, for payment to Item 3480-001-0001, payable from the Soil Conservation Fund	2,036,000
3480-001-0336—For support of Department of Conservation, for payment to Item 3480-001-0001, payable from the Mine Reclamation Account	2,700,000
3480-001-0338—For support of Department of Conservation, for payment to Item 3480-001-0001, payable from the Strong Motion Instrumentation and Seismic Hazards Mapping Fund.....	7,966,000
3480-001-0890—For support of Department of Conservation, for payment to Item 3480-001-0001, payable from the Federal Trust Fund	1,687,000
3480-001-0940—For support of Department of Conservation, for payment to Item 3480-001-0001, payable from the Bosco Keene Renewable Resources Investment Fund.....	778,000
3480-001-3025—For support of Department of Conservation, for payment to Item 3480-001-0001, payable from the Abandoned Mine Reclamation and Minerals Fund Subaccount, Mine Reclamation Account...	400,000
3480-001-3046—For support of Department of Conservation, for payment to Item 3480-001-0001, payable from the Oil, Gas, and Geothermal Administrative Fund	13,624,000
3480-001-6004—For support of Department of Conservation, for payment to Item 3480-001-0001, payable from the Agriculture and Open Space Mapping Sub-account.....	430,000

Item	Amount
3480-001-6029—For support of Department of Conservation, for payment to Item 3480-001-0001, payable from the California Clean Water, Clean Air, Safe Neighborhood Parks and Coastal Protection Fund of 2002.....	529,000
3480-001-6031—For support of Department of Conservation, for payment to Item 3480-001-0001, payable from the Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002	225,000
3480-101-6029—For local assistance, Department of Conservation, payable from the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Fund.....	12,000,000
Provisions:	
1. The funds appropriated in this item shall be available for expenditure until June 30, 2007.	
3480-101-6031—For local assistance, Department of Conservation, payable from the Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002.....	3,000,000
Provisions:	
1. The funds appropriated in this item shall be available for expenditure until June 30, 2007.	
3480-295-0001—For local assistance, Department of Conservation, for reimbursement, in accordance with the provisions of Section 6 of Article XIII B of the California Constitution or Section 17561 of the Government Code, of the costs of any new program or increased level of service of an existing program mandated by statute or executive order, for disbursement by the State Controller	0
Schedule:	
(1) 98.01.113.175-Mineral resources policies (Ch. 1131, Stats. 1975)....	0
Provisions:	
1. Pursuant to Section 17581 of the Government Code, the mandate identified in the appropriation schedule of this item with an appropriation of \$0 and included in the language of this provision are specifically identified by the Legislature for suspension during the 2004–05 fiscal year:	
(1) Mineral resources policies (Ch. 1131, Stats. 1975)	
3540-001-0001—For support of Department of Forestry and Fire Protection	353,739,000

Item	Amount
Schedule:	
(1) 100000-Personal services.....	417,015,000
(2) 300000-Operating expenses and equipment.....	224,910,000
(3) Reimbursements	-170,075,000
(4) Less funding provided by capital outlay	-1,063,000
(5) Amount payable from the General Fund (Item 3540-006-0001).....	-70,000,000
(6) Amount payable from the Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Fund (Item 3540-001-0005).	-241,000
(7) Amount payable from the State Emergency Telephone Number Account (Item 3540-001-0022).....	-1,622,000
(8) Amount payable from the Unified Program Account (Item 3540-001-0028).....	-311,000
(9) Amount payable from the State Fire Marshal Licensing and Certification Fund (Item 3540-001-0102)...	-1,884,000
(10) Amount payable from the California Environmental License Plate Fund (Item 3540-001-0140).....	-395,000
(11) Amount payable from the California Fire and Arson Training Fund (Item 3540-001-0198)	-1,583,000
(12) Amount payable from the Hazardous Liquid Pipeline Safety Fund (Item 3540-001-0209)	-2,227,000
(13) Amount payable from the Public Resources Account, Cigarette and Tobacco Products Surtax Fund (Item 3540-001-0235)	-386,000
(14) Amount payable from the Professional Forester Registration Fund (Item 3540-001-0300)	-192,000
(15) Amount payable from the Federal Trust Fund (Item 3540-001-0890).....	-26,108,000
(15.5) Amount payable from the Forest Resources Improvement Fund (Item 3540-001-0928)	-850,000
(15.7) Amount payable from the Renewable Resources Investment Fund (Item 3540-001-0940).....	-3,498,000

Item	Amount
(16) Amount payable from the Timber Tax Fund (Item 3540-001-0965)...	-30,000
(18.5) Amount payable from the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Fund (Item 3540-001-6029).....	-7,481,000
(19) Amount payable from the Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002 (Item 3540-001-6031)	-240,000
Provisions:	
1. Notwithstanding any other provision of law, the Department of Finance may authorize the temporary or permanent redirection of funds from this item for purposes of emergency fire suppression and detection costs and related emergency refutation costs.	
3540-001-0005—For support of Department of Forestry and Fire Protection, for payment to Item 3540-001-0001, payable from the Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Fund	241,000
3540-001-0022—For support of Department of Forestry and Fire Protection, for payment to Item 3540-001-0001, payable from the State Emergency Telephone Number Account	1,622,000
Provisions:	
1. Notwithstanding any other provision of law, monies in this item shall be available for the Computer Aided Dispatch system.	
3540-001-0028—For support of Department of Forestry and Fire Protection, for payment to Item 3540-001-0001, payable from the Unified Program Account ..	311,000
3540-001-0102—For support of Department of Forestry and Fire Protection, for payment to Item 3540-001-0001, payable from the State Fire Marshal Licensing and Certification Fund	1,884,000
3540-001-0140—For support of Department of Forestry and Fire Protection, for payment to Item 3540-001-0001, payable from the California Environmental License Plate Fund	395,000
3540-001-0198—For support of Department of Forestry and Fire Protection, for payment to Item 3540-001-0001, payable from the California Fire and Arson Training Fund.....	1,583,000

Item	Amount
3540-001-0209—For support of Department of Forestry and Fire Protection, for payment to Item 3540-001-0001, payable from the Hazardous Liquid Pipeline Safety Fund.....	2,227,000
3540-001-0235—For support of Department of Forestry and Fire Protection, for payment to Item 3540-001-0001, payable from the Public Resources Account, Cigarette and Tobacco Products Surtax Fund.....	386,000
3540-001-0300—For support of Department of Forestry and Fire Protection, for payment to Item 3540-001-0001, payable from the Professional Forester Registration Fund.....	192,000
3540-001-0890—For support of Department of Forestry and Fire Protection, for payment to Item 3540-001-0001, payable from the Federal Trust Fund	26,108,000
Provisions:	
1. Any federal funds that may become available in addition to the funds appropriated in this item for emergency fire suppression are exempt from Section 28.00 of this act.	
3540-001-0928—For support of Department of Forestry and Fire Protection, for payment to Item 3540-001-0001, payable from the Forest Resources Improvement Fund.....	850,000
3540-001-0940—For support of Department of Forestry and Fire Protection, for payment to Item 3540-001-0001, payable from the Bosco-Keene Renewable Resources Investment Fund.....	3,498,000
3540-001-0965—For support of Department of Forestry and Fire Protection, for payment to Item 3540-001-0001, payable from the Timber Tax Fund.....	30,000
3540-001-6029—For support of the Department of Forestry and Fire Protection, for payment to Item 3540-001-0001, payable from the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Fund	7,481,000
Provisions:	
1. Of the funds appropriated in this item, \$600,000 is provided to the California Conservation Corps through reimbursements available from contract recipients awarded funding under the Sierra Nevada Fuel Management Program by the Department of Forestry and Fire Protection from the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Fund. To facilitate this funding to the California Conservation Corps, the Department of Forestry and Fire	

Item	Amount
Protection shall give priority to those contract applicants that propose including the California Conservation Corps in the implementation of their contracts and that meet criteria established by the Department of Forestry and Fire Protection for projects funded by the Sierra Nevada Fuel Management Program.	
2. Of the funds appropriated in this item, \$25,000 shall be provided to the California Conservation Corps for prescribed fire activities under the direction of the Department of Forestry and Fire Protection.	
3540-001-6031—For support of Department of Forestry and Fire Protection, for payment to Item 3540-001-0001, payable from the Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002.....	240,000
3540-003-0001—For support of Department of Forestry and Fire Protection for rental payments on lease-revenue bonds	2,013,000
Schedule:	
(1) Base Rental and Fees	2,926,000
(2) Insurance	26,000
(3) Reimbursements	-939,000
Provisions:	
1. The Controller shall transfer funds appropriated in this item according to a schedule to be provided by the State Public Works Board. The schedule shall be provided on a monthly basis or as otherwise might be needed to ensure debt requirements are met.	
3540-006-0001—For support of Department of Forestry and Fire Protection, for payment to Item 3540-001-0001.....	70,000,000
Provisions:	
1. The funds appropriated in this item shall be available for emergency fire suppression and detection costs and related emergency revegetation costs and may be used for these purposes to reimburse the main support appropriation (Item 3540-001-0001) only upon approval by the Department of Finance.	
2. The Director of Forestry and Fire Protection shall furnish quarterly reports on expenditures for emergency fire suppression activities to the Director of Finance, the Chairperson of the Joint Legislative Budget Committee, and the fiscal and	

Item	Amount
appropriate policy committees of each house. The Director of Finance may authorize expenditures in excess of the amount appropriated in this item by an amount necessary to fund emergency fire suppression costs. This authorization shall occur not less than 30 days after the receipt by the Legislature of the quarterly expenditure report from the Department of Forestry and Fire Protection.	
3540-101-0005—For local assistance, Department of Forestry and Fire Protection, payable from the Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Fund.....	1,175,000
3540-295-0001—For local assistance, Department of Forestry and Fire Protection, for reimbursement, in accordance with the provisions of Section 6 of Article XIII B of the California Constitution or Section 17561 of the Government Code, of the cost of any new program or increased level of service of an existing program mandated by statute or executive order, for disbursement by the State Controller.....	0
Schedule:	
(1) 98.01.118.892-Very High Fire Hazard Severity Zones (Ch. 1188, Stats. 1992)	0
Provisions:	
1. Pursuant to Section 17581 of the Government Code, the mandate identified in the appropriation schedule of this item with an appropriation of \$0 and included in the language of the provision is specifically identified by the Legislature for suspension during the 2004–05 fiscal year:	
(1) 98.01.118.892-Very High Fire Hazard and Severity Zones (Ch. 1188, Stats. 1992)	
3540-301-0001—For capital outlay, Department of Forestry and Fire Protection, payable from the General Fund	3,356,000
Schedule:	
(3) 30.10.125-Mendocino Ranger Unit Headquarters: Replace Automotive Shop—Acquisition	1,000,000
(4) 30.10.255-Mt. St. Helena: Communication Facility: Renovation—Preliminary plans, working drawings, and construction	500,000
(7) 30.30.175-Owens Valley Conservation Camp: Construct Facility Upgrades—Construction.....	1,856,000

Item	Amount
Provisions:	
2. The funds appropriated in Schedule (4) of this item include funding for construction and pre-construction activities, including, but not limited to, study, environmental documents, preliminary plans, working drawings, equipment, and other costs relating to the design and construction of facilities that may be performed by the Department of Forestry and Fire Protection, subject to approval by the Department of Finance. While the Department of Forestry and Fire Protection may manage the project, the project is subject to the review by the State Public Works Board.	
3540-301-0660—For capital outlay, Department of Forestry and Fire Protection, payable from the Public Buildings Construction Fund.....	11,960,000
Schedule:	
(0.5) 30.10.015-Ukiah Forest Fire Station: Replace Facilities—Working drawings and construction.....	551,000
(0.6) 30.10.035-Stevens Creek Forest Fire Station: Replace Facility—Acquisition.....	175,000
(0.7) 30.10.090-Pacheco Forest Fire Station: Replace Facility—Acquisition.....	175,000
(1) 30.20.035-Fort Jones Forest Fire Station: Replace Facility—Construction.....	718,000
(2) 30.20.040-Manton Forest Fire Station: Relocate Facility—Construction.....	720,000
(3) 30.20.045-Weaverville Forest Fire Station: Relocate Facility—Construction.....	581,000
(3.5) 30.30.060-Hemet Ryan Air Attack Base: Relocate Facility—Construction.....	834,000
(3.6) 30.30.075-Warner Springs Forest Fire Station: Replace Facility—Acquisition.....	175,000
(3.7) 30.30.150-Nipomo Forest Fire Station: Replace Facility—Acquisition.....	175,000

Item	Amount
(3.8) 30.30.160-South Operations Area Headquarters: Relocate Facility—Acquisition, working drawings, and construction.....	3,062,000
(4) 30.30.165-Cuyamaca Forest Fire Station: Relocate Facility—Preliminary plans, working drawings and construction	3,339,000
(4.5) 30.40.015-Sonora Forest Fire Station: Relocate Facility—Construction	626,000
(5) 30.40.120-Dew Drop Forest Fire Station: Replace Facility—Acquisition	50,000
(6) 30.40.145-Bautista Conservation Camp: Replace Modular Buildings—Preliminary plans, working drawings, and construction.....	779,000

Provisions:

1. The State Public Works Board may issue lease-revenue bonds, notes, or bond anticipation notes pursuant with Chapter 5 (commencing with Section 15830) of Part 10b of Division 3 of Title 2 of the Government Code to finance the acquisition, design, and construction of the projects authorized by this item.
2. The State Public Works Board and the Department of Forestry and Fire Protection may obtain interim financing for the project costs authorized in this item from any appropriate source including, but not limited to, the Pooled Money Investment Account pursuant to Sections 16312 and 16313 of the Government Code.
3. The State Public Works Board may authorize the augmentation of the cost of construction of the project scheduled in this item pursuant to the board’s authority under Section 13332.11 of the Government Code. In addition, the State Public Works 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 construction of the project, the costs of financing a debt service fund, and the cost of issuance of perma-

Item

Amount

- ment financing for the project. This additional amount may include interest payable on any interim financing obtained.
4. Notwithstanding Section 2.00 of this act, the funds appropriated by Schedule (4) of this item shall be available for expenditure during the 2004–05 fiscal year, except appropriations for working drawings which shall be available for expenditure until June 30, 2006, and appropriations for construction which shall be available for expenditure until June 30, 2009. In addition, the balance of funds appropriated for construction by Schedule (4) that have not been allocated, through fund transfer or approval to bid, by the Department of Finance on or before June 30, 2007, shall revert as of that date to the fund from which the appropriation was made.
 5. This department 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.
 6. The State Public Works Board shall not be deemed a lead or responsible agency for purposes of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) for any activities under the State Building Construction Act of 1955 (Part 10.5 (commencing with Section 15800) of Division 3 of Title 2 of the Government Code). This section does not exempt this department from the requirements of the California Environmental Quality Act. This section is intended to be declarative of existing law.
 7. Preliminary plans for Schedule (4) of this item are not yet complete. Due to the consistent design and components of this facility, and to facilitate the use of the Public Buildings Construction Fund and related interim financing from the Pooled Money Investment Account, this project is authorized to the extent the scope and cost for Schedule (4) remain consistent with Department of General Services capital outlay budget package B4CDF3A. Nothing in this provision shall be

Item	Amount
<p>construed to limit the Public Works Board’s authority pursuant to Section 13332.11 of the Government Code.</p>	
<p>8. Notwithstanding any other provision of law, the funds appropriated by Schedules (.6), (.7), (3.6), (3.7), and (5) of this item may be used to acquire fee acquisition through a purchase option or less than fee acquisition, through a long-term lease or prepaid long-term lease, subject to approval by the Department of Finance.</p>	
<p>9. Notwithstanding Section 13332.11 of the Government Code, the State Public Works Board shall not augment the amount provided for the South Operations Area Headquarters: Relocate Facility project, as set forth in Schedule (3.8) of this item, in order to replace federal funds that are identified in Item 3540-301-0890. If an authorized federal entity determines that the funds identified in Item 3540-301-0890, are only available as payments over time, the State Public Works Board may authorize an increase in Schedule (3.8) of this item by the amount necessary to cover the federal government’s share of the project set forth in Schedule (3.8) of this item only after the appropriate federal entity enters into a signed agreement to completely reimburse the State of California for the increased lease payments attributed to the federal share of the project over a specified period of time. The term of the federal payments shall not exceed the term of the bonds, and the agreement shall be subject to State Public Works Board approval.</p>	
<p>3540-301-0890—For capital outlay, Department of Forestry and Fire Protection, payable from the Federal Trust Fund.....</p> <p>Schedule:</p>	1,709,000
<p>(1) 30.30.160-South Operations Area Headquarters: Relocate Facility—Acquisition, working drawings, and construction</p>	
<p>3540-401—Of the amount loaned pursuant to Section 74 of Chapter 741 of the Statutes of 2003, \$52,500,000 will not be required to be repaid.</p>	

Item	Amount
3540-490—Extension of liquidation period, Department of Forestry and Fire Protection. Notwithstanding any other provision of law, up to two million dollars (\$2,000,000) of funds appropriated in Item 3540-001-0001, Budget Act of 2001 for the purpose of converting S-2 aircraft to turbine power shall be available for liquidation until June 30, 2005.	
3540-491—Reappropriation, Department of Forestry and Fire Protection. The balance of the appropriations provided in the following citations are reappropriated for the purposes and subject to the limitations, unless otherwise specified, provided for by the appropriations:	
0660—Public Buildings Construction Fund	
(1) Item 3540-301-0660, Budget Act of 2001 (Ch. 106, Stats. 2001), as partially reappropriated by Item 3540-490, Budget Act of 2002 (Ch. 379, Stats. 2002) and Item 3540-490, Budget Act of 2003 (Ch. 157, Stats. 2003)	
(9) 30.40.120-Dew Drop Forest Fire Station: Replace Facility—Construction	
(2) Item 3540-301-0660, Budget Act of 2002 (Ch. 379, Stats. 2002), as partially reappropriated by Item 3540-490, Budget Act of 2003 (Ch. 157, Stats. 2003)	
(1) 30.10.015-Ukiah Forest Fire Station: Replace Facility—Construction	
(3) 30.10.110-Elk Camp Forest Fire Station: Relocate Facility—Construction	
(11) 30.30.120-Fenner Canyon Conservation Camp: Construct Vehicle Apparatus Building—Construction	
(17) 30.40.075-Usona Forest Fire Station: Replace Facility—Construction	
(20) 30.40.145-Bautista Conservation Camp: Replace Modular Buildings—Preliminary plans, working drawings, and construction	
(21) 30.40.195-Altaville Forest Fire Station: Replace Facility—Working drawings and construction	
(3) Item 3540-301-0660, Budget Act of 2003 (Ch. 157, Stats. 2003)	
(4) 30.40.020-Batterson Forest Fire Station: Relocate Facility—Working drawings and construction	
(6.1) 30.40.120-Dew Drop Forest Fire Station: Replace Facility—Construction	

Item	Amount
(8) 30.40.150-Baseline Conservation Camp: Remodel Facility—Working drawings and construction	
3540-496—Reversion, Department of Forestry and Fire Protection. Notwithstanding any other provision of law, the unencumbered balances as of June 30, 2004, of the appropriations provided for in the following citations shall revert to the fund balance from which the appropriation was made:	
0660—Public Buildings Construction Fund	
(1) Item 3540-301-0660, Budget Act of 2001 (Ch. 106, Stats. 2001), as partially reappropriated by Item 3540-490, Budget Act of 2002 (Ch. 379, Stats. 2002) and Item 3540-490, Budget Act of 2003 (Ch. 157, Stats. 2003)	
(1) Owens Valley Conservation Camp: Construct Facility Upgrades—Construction	
3560-001-0001—For support of State Lands Commission.....	8,856,000
Schedule:	
(1) 10-Mineral Resources Management.....	5,916,000
(2) 20-Land Management.....	8,207,000
(3) 30.01-Executive and Administration.....	3,042,000
(4) 30.02-Distributed Administration ...	-3,042,000
(5) 40-Marine Facilities Management.....	8,196,000
(6) Reimbursements.....	-3,209,000
(7) Amount payable from the Marine Invasive Species Control Fund (Item 3560-001-0212)	-1,886,000
(8) Amount payable from the Oil Spill Prevention and Administration Fund (Item 3560-001-0320).....	-7,960,000
(9) Amount payable from the Land Bank Fund (Item 3560-001-0943).	-408,000
Provisions:	
1. Notwithstanding subdivision (d) of Section 4 of Chapter 138 of the Statutes of 1964, 1st Extraordinary Session, all commission costs for administering the Long Beach Tidelands, exclusive of any Attorney General charges, shall be included in revenues deposited into the General Fund pursuant to paragraph (1) of subdivision (a) of Section 6217 of the Public Resources Code.	

Item	Amount
2. All costs incurred to manage state school lands shall be deducted from the revenues produced by those lands and deposited into the General Fund pursuant to Section 24412 of the Education Code.	
3560-001-0212—For support of State Lands Commission, for payment to Item 3560-001-0001, payable from the Marine Invasive Species Control Fund	1,886,000
3560-001-0320—For support of State Lands Commission, for payment to Item 3560-001-0001, payable from the Oil Spill Prevention and Administration Fund	7,960,000
Provisions:	
1. Funds appropriated in this item shall not be expended to monitor or inspect marine bunkering operations from barges or any marine lightering operations.	
3560-001-0943—For support of State Lands Commission, for payment to Item 3560-001-0001, payable from the Land Bank Fund.....	408,000
3600-001-0001—For support of Department of Fish and Game	35,634,000
Schedule:	
(1) 20-Biodiversity Conservation Program.....	196,020,000
(2) 25-Hunting, Fishing and Public Use.....	43,407,000
(3) 30-Management of Department Lands and Facilities	43,866,000
(4) 40-Conservation Education and Enforcement	49,075,000
(5) 50-Spill Prevention and Response..	28,368,000
(6) 70.01-Administration.....	32,661,000
(7) 70.02-Distributed Administration ..-	32,661,000
(8) Reimbursements.....	-29,059,000
(8.5) Amount payable from the Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Fund (Item 3600-001-0005).	-1,072,000
(9) Amount payable from the California Environmental License Plate Fund (Item 3600-001-0140).....	-15,581,000
(10) Amount payable from the Fish and Game Preservation Fund (Item 3600-001-0200)	-98,183,000
(11) Amount payable from the Fish and Wildlife Pollution Account (Item 3600-001-0207)	-2,469,000

Item	Amount
(12) Amount payable from the California Waterfowl Habitat Preservation Account, Fish and Game Preservation Fund (Item 3600-001-0211)...	-217,000
(13) Amount payable from the Exotic Species Control Fund (Item 3600-001-0212).....	-1,166,000
(14) Amount payable from the Public Resources Account, Cigarette and Tobacco Products Surtax Fund (Item 3600-001-0235)	-1,500,000
(15) Amount payable from the Oil Spill Prevention and Administration Fund (Item 3600-001-0320).....	-20,496,000
(16) Amount payable from the Environmental Enhancement Fund (Item 3600-001-0322)	-307,000
(16.5) Amount payable from the Salmon and Steelhead Trout Restoration Account (Item 3600-001-0384).....	-6,500,000
(17) Amount payable from the Central Valley Project Improvement Sub-account (Item 3600-001-0404).....	-53,000
(17.5) Amount payable from the Marine Life and Marine Reserve Management Account (Item 3600-001-0647).....	-500,000
(18) Amount payable from the Federal Trust Fund (Item 3600-001-0890).	-63,180,000
(19) Amount payable from the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Fund (Item 3600-001-6029).....	-7,996,000
(20) Amount payable from the Water Security Clean Drinking Water, Coastal and Beach Protection Fund of 2002 (Item 3600-001-6031)	-74,341,000
(21) Amount payable from the Salton Sea Restoration Fund (Item 3600-001-8018).....	-2,482,000
Provisions:	
1. The funds appropriated in this item may be increased with the approval of, and under the conditions set by, the Department of Finance to meet current obligations proposed to be funded in	

Item	Amount
<p>Schedules (8) and (18). The funds appropriated by this item shall not be increased until the Department of Fish and Game has a valid contract, signed by the client agency, that provides sufficient funds to finance the increased authorization. This increased authorization may not be used to expand services or create new obligations.</p> <p>Reimbursements received under Schedules (8) and (18) shall be used in repayment of any funds used to meet current obligations pursuant to this provision.</p>	
3600-001-0005—For support of Department of Fish and Game, for payment to Item 3600-001-0001, payable from the Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Fund.....	1,072,000
3600-001-0140—For support of Department of Fish and Game, for payment to Item 3600-001-0001, payable from the California Environmental License Plate Fund	15,581,000
3600-001-0200—For support of Department of Fish and Game, for payment to Item 3600-001-0001, payable from the Fish and Game Preservation Fund.....	98,183,000
Provisions:	
<ol style="list-style-type: none"> 1. Of the funds appropriated in this item, \$203,000 is for reimbursement to the State Department of Health Services for shellfish monitoring activities. 2. Of the funds appropriated in this item, \$4,000,000 shall be available to continue operations of state fish hatcheries located in various regions of the state. 	
3600-001-0207—For support of Department of Fish and Game, for payment to Item 3600-001-0001, payable from the Fish and Wildlife Pollution Account.....	2,469,000
3600-001-0211—For support of Department of Fish and Game, for payment to Item 3600-001-0001, payable from the California Waterfowl Habitat Preservation Account, Fish and Game Preservation Fund	217,000
3600-001-0212—For support of Department of Fish and Game, for payment to Item 3600-001-0001, payable from the Exotic Species Control Fund.....	1,166,000
3600-001-0235—For support of Department of Fish and Game, for payment to Item 3600-001-0001, payable from the Public Resources Account, Cigarette and Tobacco Products Surtax Fund.....	1,500,000

Item	Amount
3600-001-0320—For support of Department of Fish and Game, for payment to Item 3600-001-0001, payable from the Oil Spill Prevention and Administration Fund	20,496,000
3600-001-0322—For support of Department of Fish and Game, for payment to Item 3600-001-0001, payable from the Environmental Enhancement Fund	307,000
3600-001-0384—For support of Department of Fish and Game, for payment to Item 3600-001-0001, payable from the Salmon and Steelhead Trout Restoration Account	6,500,000
Provisions:	
1. Funds appropriated in this item shall be available for salmon and steelhead trout restoration projects authorized by Section 6217.1 of the Public Resources Code, including, but not limited to, projects that implement the Coho Salmon Recovery Plan recently adopted by the Fish and Game Commission.	
3600-001-0404—For support of Department of Fish and Game, for payment to Item 3600-001-0001, payable from the Central Valley Project Improvement Sub-account.....	53,000
3600-001-0647—For support of Department of Fish and Game, for payment to Item 3600-001-0001, payable from the Marine Life and Marine Reserve Management Account	500,000
Provisions:	
1. The funds appropriated in this item shall be available to match private funds for expenditure for activities in support of the protection and management of marine resources including: (a) facilitated regional workshops to identify potential sites for marine reserves, parks, and other protected area candidates, (b) ecological and socioeconomic studies and data compilation pursuant to the Marine Life Protection Act, and (c) research, monitoring, and planning efforts necessary to meet the goals of the Marine Life Protection Program.	
3600-001-0890—For support of Department of Fish and Game, for payment to Item 3600-001-0001, payable from the Federal Trust Fund	63,180,000
3600-001-6029—For support of Department of Fish and Game, for payment to Item 3600-001-0001, payable from the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Fund..	7,996,000

Item	Amount
Provisions:	
1. Funds appropriated in this item shall be expended pursuant to Section 6217.1 of the Public Resources Code.	
3600-001-6031—For support of Department of Fish and Game, for payment to Item 3600-001-0001, payable from the Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002	74,341,000
3600-001-8018—For support of Department of Fish and Game, for payment to Item 3600-001-0001, payable from the Salton Sea Restoration Fund	2,482,000
3600-011-0001—For support of Department of Fish and Game (reimbursement of free fishing licenses), for transfer to the Fish and Game Preservation Fund....	17,000
3600-101-0001—For local assistance, Department of Fish and Game	600,000
Schedule:	
(1) 20-Biodiversity Conservation Program.....	600,000
3600-101-0207—For local assistance, Department of Fish and Game, Program 50-Spill Prevention and Response, payable from the Fish and Wildlife Pollution Account.....	33,000
3600-101-0320—For local assistance, Department of Fish and Game, Program 50-Spill Prevention and Response, payable from the Oil Spill Prevention and Administration Fund	900,000
3600-301-0005—For capital outlay, Department of Fish and Game, payable from the Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Fund	203,000
Schedule:	
(1) 90.07.100-Minor Projects	203,000
3600-301-0200—For capital outlay, Department of Fish and Game, payable from the Fish and Game Preservation Fund.....	457,000
Schedule:	
(1) 90.07.100-Minor Projects	397,000
(2) 90.88.020-Project Planning	160,000
(3) Reimbursements-Project Planning ..	-100,000
3600-301-0320—For capital outlay, Department of Fish and Game, payable from the Oil Spill Prevention and Administration Fund.....	473,000
Schedule:	
(1) 90.07.100-Minor Projects	473,000
3640-001-0001—For support of Wildlife Conservation Board, payable to Item 3640-001-0447.....	193,000

Item	Amount
3640-001-0140—For support of Wildlife Conservation Board, payable to Item 3640-001-0447, from the California Environmental License Plate Fund	210,000
3640-001-0262—For support of Wildlife Conservation Board, payable to Item 3640-001-0447, from the Habitat Conservation Fund.....	374,000
Provisions:	
1. The amount appropriated in this item shall be available to the Wildlife Conservation Board for administrative costs associated with the California Wildlife Protection Act of 1990, and the requirements of the Habitat Conservation Fund.	
3640-001-0447—For support of Wildlife Conservation Board, payable from the Wildlife Restoration Fund	978,000
Schedule:	
(1) 10-Wildlife Conservation Board.....	5,888,000
(2) Amount payable from the General Fund (Item 3640-001-0001).....	-193,000
(3) Amount payable from the California Environmental License Plate Fund (Item 3640-001-0140).....	-210,000
(4) Amount payable from the Habitat Conservation Fund (Item 3640-001-0262)	-374,000
(5) Amount payable from the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Fund (Item 3640-001-6029).....	-439,000
(6) Amount payable from the Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002 (Item 3640-001-6031)	-3,694,000
Provisions:	
1. Of the funds appropriated by this act from the General Fund, special funds, or bond funds to the Wildlife Conservation Board for local assistance or capital outlay, upon approval of the Department of Finance, the board may allocate an amount not to exceed 1.5 percent of each project's allocation to provide for the board's costs to administer the projects.	
3640-001-6029—For support of Wildlife Conservation Board, for payment to Item 3640-001-0447, from the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Bond Fund	439,000

Item	Amount
3640-001-6031—For support of Wildlife Conservation Board, payable to Item 3640-001-0447, from the Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002	3,694,000
3640-301-0262—For capital outlay, Wildlife Conservation Board, payable from the Habitat Conservation Fund	20,577,000
Schedule:	
(1) 80.10-Wildlife Conservation Board Projects (Unscheduled).....	20,577,000
Provisions:	
1. The funds appropriated in this item are provided in accordance with the Wildlife Conservation Law of 1947 and, therefore, shall not be subject to Public Works Board review.	
2. The amount appropriated in this item is available for expenditure for capital outlay or local assistance until June 30, 2007.	
3640-301-0447—For capital outlay, Wildlife Conservation Board, payable from the Wildlife Restoration Fund, in lieu of the appropriation made by the Wildlife Conservation Law of 1947	500,000
Schedule:	
(1) 80.10.010-Minor Projects	500,000
Provisions:	
1. The funds appropriated in this item are provided in accordance with the provisions of the Wildlife Conservation Law of 1947 and, therefore, shall not be subject to Public Works Board review.	
2. The amount appropriated in this item is available for expenditure for capital outlay or local assistance.	
3640-301-6031—For capital outlay, Wildlife Conservation Board, payable from the Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002	13,250,000
Schedule:	
(1) 80.10.440-Colorado River Acquisition, Protection and Restoration Program.....	13,250,000
Provisions:	
1. The funds in this item are provided in accordance with the Wildlife Conservation Law of 1947 and, therefore, are not subject to review by the State Public Works Board.	

Item	Amount
2. The amount appropriated in this item is available for expenditure for capital outlay or local assistance until June 30, 2007.	
3640-302-6029—For capital outlay, Wildlife Conservation Board, payable from the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Fund	11,000,000
Schedule:	
(1) 80.10.603.000-San Joaquin River Conservancy—Project and acquisition	12,000,000
(2) Reimbursements	-1,000,000
Provisions:	
1. The funds in this item are provided in accordance with the Wildlife Conservation Law of 1947 and, therefore, are not subject to review by the State Public Works Board.	
2. The amount appropriated in this item is available for expenditure for capital outlay or local assistance until June 30, 2007.	
3. The funds appropriated in this item shall be allocated to the San Joaquin River Conservancy for purposes consistent with the conservancy’s mission.	
3640-311-6031—For transfer by the Controller from the Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002 to the Habitat Conservation Fund.....	21,000,000
Provisions:	
1. The funds transferred in this item shall be used for purposes consistent with the requirements of the Habitat Conservation Fund and the requirements of Section 79565 of the Water Code.	
2. The amounts transferred by this item may be adjusted to reflect the requirements of subdivision (a) of Section 2796 of the Fish and Game Code.	
3640-401—Notwithstanding any other provision of law, revenues that would have been deposited in the Resources Trust Fund pursuant to Section 6217 of the Public Resources Code shall be allocated in the following order:	
(a) \$500,000 shall be deposited into the Marine Life and Marine Reserve Management Account for appropriation to the Department of Fish and Game for activities relating to the Marine Life Protection Act.	

Item	Amount
(b)	\$165,000,000 shall be deposited into the General Fund for the 2004–05 fiscal year.
(c)	To the extent that revenues are received in addition to those specified in subdivisions (a) and (b), they shall be allocated in the following order, as funds are available:
(1) (A)	\$12,700,000 shall be deposited into the Natural Resources Infrastructure Fund for appropriation as follows:
(i)	\$2,700,000 to the Department of Parks and Recreation for the City of Los Angeles to fund priority parks renovation, restoration, improvement, and deferred maintenance.
(ii)	\$10,000,000 to the Secretary for Resources for various projects authorized pursuant to the California Ocean Protection Act, only if established by legislation to be enacted in the 2003–04 Regular Session.
(B)	In the event that sufficient revenues are not realized to fund the purposes listed in subparagraph (A) of this paragraph, the Department of Finance shall allocate available funds in a manner that is proportionally equitable to the amounts specified for the purposes listed in this paragraph.
(2)	\$6,500,000 shall be deposited into the Salmon and Steelhead Trout Restoration Account for salmon and steelhead trout restoration projects authorized by Section 6217.1 of the Public Resources Code, including, but not limited to, projects that implement the Coho Salmon Recovery Plan recently adopted by the Fish and Game Commission.
(2.5)	\$2,500,000 shall be deposited into the Water Rights Fund for environmental review by the State Water Resources Control Board of the “Guidelines for Maintaining Instream Flows to Protect Fisheries Resources Downstream of Water Diversions in Mid-California Coastal Streams.”
(3)	\$4,000,000 shall be deposited into the Fish and Game Preservation Fund to continue operation of state fish hatcheries located in various regions of the state.

Item	Amount
<ul style="list-style-type: none"> (4) Any revenues remaining after expenditure for the purposes specified in paragraphs (1), (2), (2.5), and (3), shall be deposited in the General Fund. 	
3680-001-0516—For support of Department of Boating and Waterways, payable from the Harbors and Watercraft Revolving Fund	15,103,000
Schedule:	
<ul style="list-style-type: none"> (1) 10-Boating Facilities (2) 20-Boating Operations..... (3) 30-Beach Erosion Control (4) 40.01-Administration..... (5) 40.02-Distributed Administration ... (6) Reimbursements..... (7) Amount payable from the Federal Trust Fund (Item 3680-001-0890). (8) Less funding provided by capital outlay 	<ul style="list-style-type: none"> 14,700,000 6,230,000 233,000 2,356,000 -2,356,000 -15,000 -5,893,000 -152,000
Provisions:	
<ul style="list-style-type: none"> 1. Notwithstanding Section 85.2 of the Harbors and Navigation Code, \$233,000 of the funds appropriated in this item shall be expended for support of the Department of Boating and Waterways beach erosion control program. 	
3680-001-0890—For support of Department of Boating and Waterways, for payment to Item 3680-001-0516, payable from the Federal Trust Fund.....	5,893,000
3680-101-0516—For local assistance, Department of Boating and Waterways, payable from the Harbors and Watercraft Revolving Fund.....	39,096,000
Schedule:	
<ul style="list-style-type: none"> (1) 10-Boating Facilities (a) Launching Facility Grants <ul style="list-style-type: none"> (1) Antioch Marine BLF (2) Cuttings Wharf (3) Dana Point BLF ... (4) Floating Restrooms (5) Lake Elsinore (6) Lake Ming BLF..... (7) Lopez Lake BLF ... (8) Nacimiento (9) Oyster Point Marina BLF (10) Pepper Park BLF . (11) Port San Luis BLF..... 	<ul style="list-style-type: none"> 32,239,000 (10,996,000) (280,000) (197,000) (200,000) (500,000) (2,200,000) (1,373,000) (83,000) (1,048,000) (83,000) (103,000) (1,409,000)

Item	Amount
(12) Ramp Repair and Extensions.....	(500,000)
(13) San Leandro Marina BLF	(1,670,000)
(14) Shelter Island BLF	(200,000)
(15) Signs	(50,000)
(16) Vessels Pumpout ..	(100,000)
(17) Reimbursement Grants	(1,000,000)
(b) Public Small Craft Harbor Loans.....	(16,500,000)
(1) Alamitos Bay-Basin 1.....	(500,000)
(2) Long Beach Downtown Marinas	(6,850,000)
(3) Dana Point Marina.....	(1,500,000)
(4) Sacramento Marina	(5,150,000)
(5) San Francisco Marina	(1,500,000)
(6) Long Beach Basins 2 and 3.....	(500,000)
(7) Emergency Loans ..	(500,000)
(c) Private Loans	(3,500,000)
(d) Clean Vessel Act Grant Program....	(843,000)
(e) Boating Trails	(300,000)
(f) Boating Infrastructure Grant Program.....	(100,000)
(2) 20-Boating Operations.....	9,575,000
(3) 30-Beach Erosion Control	1,000,000
(4) Reimbursements	-1,000,000
(5) Amount payable from the Abandoned Watercraft Abatement Fund (Item 3680-101-0577)	-500,000
(6) Amount payable from the Federal Trust Fund (Item 3680-101-0890) ..	-2,218,000
Provisions:	
1. Of the funds appropriated in Schedule (2), Program 20-Boating Operations, \$8,100,000 is for boating safety and enforcement programs pursuant to Section 663.7 of the Harbors and Navigation Code.	
3680-101-0577—For local assistance, Department of Boating and Waterways, for payment to Item 3680-101-0516, payable from the Abandoned Watercraft Abatement Fund	500,000

Item	Amount
3680-101-0890—For local assistance, Department of Boating and Waterways, for payment to Item 3680-101-0516, payable from the Federal Trust Fund.....	2,218,000
Provisions:	
1. Of the amount appropriated in this item, \$975,000 shall be for grants to local governments for boating safety and law enforcement, 15 percent of which shall be allocated according to the department’s discretion, and 85 percent of which shall be allocated by the department in accordance with the following priorities:	
First—To local governments that are eligible for state aid because they are spending all their local boating revenue on boating enforcement and safety, but are not receiving sufficient state funds to meet their need as calculated pursuant to Section 663.7 of the Harbors and Navigation Code.	
Second—To local governments that are not spending all local boating revenue on boating enforcement and safety, and whose boating revenue does not equal their calculated need. Local assistance shall not exceed the difference between the calculated need and local boating revenue.	
Third—To local governments whose boating revenue exceeds their need, but who are not spending sufficient local revenue to meet their calculated need.	
3680-301-0516—For capital outlay, Department of Boating and Waterways, payable from the Harbors and Watercraft Revolving Fund	2,288,000
Schedule:	
(1) 50.99.010-Project Planning	80,000
(2) 50.99.020-Minor Projects	2,208,000
Provisions:	
1. Funds appropriated in Schedule (1) are available for expenditure by the Department of Boating and Waterways upon approval of the Department of Finance to be used to develop design information or cost information for new construction projects for which funds have not been appropriated previously but which are anticipated to be included in the Governor’s Budget for the 2005–06 or 2006–07 fiscal year.	

Item	Amount
3680-490—Reappropriation, Department of Boating and Waterways. The balance of the appropriation provided in the following citation is reappropriated for the purposes and subject to the limitations, unless otherwise specified, provided for in that appropriation: 0516—Harbors and Watercraft Revolving Fund (1) Item 3680-301-0516, Budget Act of 2002 (Ch. 379, Stats. 2002), as reappropriated by Item 3680-490, Budget Act of 2003 (Ch. 157, Stats. 2003) (5) 50.56.010-Channel Islands: Boating Instruction and Safety Center—Working drawings	
3680-496—Reversion, Department of Boating and Waterways. Notwithstanding any other provision of law, the unencumbered balances as of June 30, 2004, of the appropriations provided for in the following citations shall revert to the fund balance from which the appropriation was made: 0516—Harbors and Watercraft Revolving Fund (1) Item 3680-301-0516, Budget Act of 2003 (Ch. 157, Stats. 2003) (1) 50.19.040-Castaic Lake, East Ramp Boat Launching Facility Rehabilitation and Expansion—Preliminary plans (2) 50.24.040-San Luis Creek, Boat Launching Facility Rehabilitation and Expansion—Preliminary plans (3) 50.30.040-Brannan Island SRA, Boat Launching Facility and Rehabilitation—Working drawings and construction (4) 50.34.031-Lake Natoma: Boating Instruction and Safety Center, Phase II—Working drawings (5) 50.36.010-Silverwood Lake: Boat Facility Renovation—Working drawings (2) Item 3680-301-0516, Budget Act of 2000 (Ch. 52, Stats. 2000), as partially reappropriated by Item 3680-490, Budget Act of 2001, (Ch. 106, Stats. 2001) and Item 3680-490, Budget Act of 2003 (Ch. 157, Stats. 2003) (2) 50.10.010-Millerton Lake SRA, Crows Nest Area: Boat Launching Facility—Construction	
3720-001-0001—For support of California Coastal Commission.....	9,386,000

Item	Amount
Schedule:	
(1) 10-Coastal Management Program ..	13,289,000
(2) 20-Coastal Energy Program	770,000
(3) 30.01-Administration.....	1,528,000
(4) 30.02-Distributed Administration ...	-1,447,000
(5) Reimbursements.....	-1,214,000
(6) Amount payable from California Beach and Coastal Enhancement Account (Item 3720-001-0371).....	-557,000
(7) Amount payable from the Federal Trust Fund (Item 3720-001-0890).	-2,983,000
3720-001-0371—For support of California Coastal Commission, for payment to Item 3720-001-0001, payable from the California Beach and Coastal Enhancement Account, California Environmental License Plate Fund	557,000
3720-001-0890—For support of California Coastal Commission, for payment to Item 3720-001-0001, payable from the Federal Trust Fund	2,983,000
3720-101-0371—For local assistance, California Coastal Commission, payable from California Beach and Coastal Enhancement Account, California Environmental License Plate Fund	789,000
Schedule:	
(1) 10-Coastal Management Program ..	789,000
3720-295-0001—For local assistance, California Coastal Commission, for reimbursement, in accordance with the provisions of Section 6 of Article XIII B of the California Constitution or Section 17561 of the Government Code, of the costs of any new program or increased level of service of an existing program mandated by statute or executive order, for disbursement by the State Controller	0
Schedule:	
(1) 98.01.133.076-Local coastal plans (Ch. 1330, Stats. 1976)	0
Provisions:	
1. Pursuant to Section 17581 of the Government Code, the mandate identified in the appropriation schedule of this item with an appropriation of \$0 and included in the language of this provision is specifically identified by the Legislature for suspension during the 2004–05 fiscal year:	
(1) Local coastal plans (Ch. 1330, Stats. 1976)	

Item	Amount
3760-001-0005—For support of State Coastal Conservancy, for payment to Item 3760-001-0565, payable from the Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Fund.....	1,355,000
3760-001-0565—For support of State Coastal Conservancy, payable from the State Coastal Conservancy Fund	4,680,000

Schedule:

(1) 15-Coastal Resource Development.	4,524,000
(2) 25-Coastal Resource Enhancement.	3,241,000
(3) 90.01-Administration and Support .	2,897,000
(4) 90.02-Distributed Administration.....	-2,897,000
(5) Reimbursements.....	-116,000
(6) Amount payable from the Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Fund (Item 3760-001-0005).	-1,355,000
(7) Amount payable from the Federal Trust Fund (Item 3760-001-0890).....	-120,000
(8) Amount payable from the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Fund (Item 3760-001-6029).....	-851,000
(9) Amount payable from the Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002 (Item 3760-001-6031)	-643,000

Provisions:

1. Notwithstanding any other provision of law, upon approval and order of the Department of Finance, the State Coastal Conservancy may borrow sufficient funds from the State Coastal Conservancy Fund to meet cashflow needs due to delays in collecting reimbursements. Any loan made by the Department of Finance pursuant to this provision may be made only if the State Coastal Conservancy has a valid contract or certification signed by the agency providing the reimbursements, which demonstrates that sufficient funds will be available to repay the loan. All moneys so transferred shall be repaid to the State Coastal Conservancy Fund as soon as possible, but not later than one year from the date of the loan.

Item	Amount
2. Of the funds appropriated by this act from the General Fund, special funds, or bond funds to the State Coastal Conservancy for local assistance or capital outlay, upon approval of the Department of Finance, the conservancy may allocate an amount not to exceed 1.5 percent of each project's allocation to provide for the department's costs to administer the projects.	
3760-001-0890—For support of State Coastal Conservancy, for payment to Item 3760-001-0565, payable from the Federal Trust Fund	120,000
3760-001-6029—For support of State Coastal Conservancy, for payment to Item 3760-001-0565, from the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Fund.....	851,000
3760-001-6031—For support of State Coastal Conservancy, for payment to Item 3760-001-0565, payable from the Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002	643,000
3760-301-0005—For capital outlay, State Coastal Conservancy, payable from the Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Fund	10,000,000
Schedule:	
(1) 80.97.030-Conservancy Programs ..	10,500,000
(2) Reimbursements	-500,000
Provisions:	
1. The funds appropriated in this item are conditioned upon all of the following:	
(a) The State Coastal Conservancy may not enter into a grant contract with a nonprofit organization or local government for property acquisition unless the grant contract provides a reversionary interest to the state that specifies that the property shall not revert to the state without review and approval by the State Coastal Conservancy and the State Public Works Board.	
(b) The State Coastal Conservancy may not enter into a grant contract with a nonprofit organization or local government for property acquisition that provides for a state leasehold interest in property acquired by a nonstate public agency with grant funds of the State Coastal Conservancy unless the Director of General Services approves the lease terms.	

Item	Amount
<ul style="list-style-type: none"> (c) Except for the above, the expenditures of funds for grants to nonstate public agencies and nonprofit organizations shall be exempt from State Public Works Board review. 2. The funds appropriated in this item are available for encumbrance for either capital outlay or local assistance until June 30, 2007. 	
3760-301-0262—For capital outlay, State Coastal Conservancy, payable from the Habitat Conservation Fund	4,000,000
Schedule:	
(1) 80.93.025-Coastal Resource Enhancement	4,300,000
(2) Reimbursements.....	-300,000
Provisions:	
<ul style="list-style-type: none"> 1. (a) The State Coastal Conservancy shall not enter into a grant contract with a nonprofit organization or local government for property acquisition unless the grant contract provides a reversionary interest to the state that specifies that the property shall not revert to the state without review and approval by the State Coastal Conservancy and the State Public Works Board. (b) The State Coastal Conservancy shall not enter into a grant contract with a nonprofit organization or local government for property acquisition that provides for a state leasehold interest in property acquired by a nonstate public agency with grant funds of the State Coastal Conservancy unless the Director of General Services approves the lease terms. (c) Except for the above, the expenditures of funds for grants to nonstate public agencies and nonprofit organizations shall be exempt from State Public Works Board review. 2. The funds appropriated in this item are available for encumbrance for either capital outlay or local assistance without regard to fiscal year. 3. Notwithstanding any other provision of law, upon approval and order of the Department of Finance, the State Coastal Conservancy may borrow sufficient funds from the State Coastal Conservancy Fund to meet cashflow needs due to delays in collecting reimbursements. Any loan made by the 	

Item	Amount
<p>Department of Finance pursuant to this provision may be made only if the State Coastal Conservancy has a valid contract or certification signed by the agency providing the reimbursements, which demonstrates that sufficient funds will be available to repay the loan. All moneys so transferred shall be repaid to the State Coastal Conservancy Fund as soon as possible, but not later than one year from the date of the loan.</p>	
<p>3760-301-0371—For capital outlay, State Coastal Conservancy, payable from the California Beach and Coastal Enhancement Account, California Environmental License Plate Fund</p>	400,000
<p>Schedule:</p>	
<p>(1) 80.00.020-Public Access.....</p>	400,000
<p>Provisions:</p>	
<p>1. (a) The State Coastal Conservancy may not enter into a grant contract with a nonprofit organization or local government for property acquisition unless the grant contract provides a reversionary interest to the state that specifies that the property shall not revert to the state without review and approval by the State Coastal Conservancy and the State Public Works Board.</p>	
<p>(b) The State Coastal Conservancy may not enter into a grant contract with a nonprofit organization or local government for property acquisition that provides for a state leasehold interest in property acquired by a nonstate public agency with grant funds of the State Coastal Conservancy unless the Director of General Services approves the lease terms.</p>	
<p>(c) Except for the above, the expenditure of funds for grants to nonstate public agencies and nonprofit organizations is exempt from State Public Works Board review.</p>	
<p>2. The funds appropriated in this item are available for encumbrance for either capital outlay or local assistance until June 30, 2007.</p>	
<p>3760-301-0565—For capital outlay, State Coastal Conservancy, payable from the State Coastal Conservancy Fund</p>	100,000
<p>Schedule:</p>	
<p>(1) 80.00.020-Public Access.....</p>	100,000

Item		Amount
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Provisions:

1. (a) The State Coastal Conservancy may not enter into a grant contract with a nonprofit organization or local government for property acquisition unless the grant contract provides a reversionary interest to the state that specifies that the property shall not revert to the state without review and approval by the State Coastal Conservancy and the State Public Works Board.
- (b) The State Coastal Conservancy may not enter into a grant contract with a nonprofit organization or local government for property acquisition that provides for a state leasehold interest in property acquired by a nonstate public agency with grant funds of the State Coastal Conservancy unless the Director of General Services approves the lease terms.
- (c) Except for the above, the expenditure of funds for grants to nonstate public agencies and nonprofit organizations is exempt from State Public Works Board review.
2. The funds appropriated in this item are available for encumbrance for either capital outlay or local assistance until June 30, 2007.

3760-301-0593—For capital outlay, State Coastal Conservancy, payable from the Coastal Access Account, State Coastal Conservancy Fund		400,000
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Schedule:

(1) 80.00.020-Public Access.....		400,000
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Provisions:

1. (a) The State Coastal Conservancy may not enter into a grant contract with a nonprofit organization or local government for property acquisition unless the grant contract provides a reversionary interest to the state that specifies that the property shall not revert to the state without review and approval by the State Coastal Conservancy and the State Public Works Board.
- (b) The State Coastal Conservancy may not enter into a grant contract with a nonprofit organization or local government for property acquisition that provides for a state leasehold interest in property acquired by a nonstate

Item	Amount
<ul style="list-style-type: none"> public agency with grant funds of the State Coastal Conservancy unless the Director of General Services approves the lease terms. (c) Except for the above, the expenditure of funds for grants to nonstate public agencies and nonprofit organizations is exempt from State Public Works Board review. 	
<ul style="list-style-type: none"> 2. The funds appropriated in this item are available for encumbrance for either capital outlay or local assistance until June 30, 2007. 	
3760-301-0890—For capital outlay, State Coastal Conservancy, payable from the Federal Trust Fund.....	2,000,000
Schedule:	
(1) 80.97.030-Conservancy Programs ..	2,000,000
Provisions:	
<ul style="list-style-type: none"> 1. (a) The State Coastal Conservancy shall not enter into a grant contract with a nonprofit organization or local government for property acquisition unless the grant contract provides a reversionary interest to the state that specifies that the property shall not revert to the state without review and approval by the State Coastal Conservancy and the State Public Works Board. (b) The State Coastal Conservancy shall not enter into a grant contract with a nonprofit organization or local government for property acquisition that provides for a state leasehold interest in property acquired by a nonstate public agency with grant funds of the State Coastal Conservancy unless the Director of General Services approves the lease terms. (c) Except for the above, the expenditures of funds for grants to nonstate public agencies and nonprofit organizations shall be exempt from State Public Works Board review. 	
<ul style="list-style-type: none"> 2. The funds appropriated in this item are available for encumbrance for either capital outlay or local assistance until June 30, 2007. 	
3760-301-6029—For capital outlay, State Coastal Conservancy, payable from the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Fund	26,400,000
Schedule:	
(1) 80.00.023-San Francisco Bay Conservancy Program	6,900,000

Item	Amount
(1.5) 80.97.030-Conservancy Programs	20,000,000
(2) Reimbursements	-500,000
Provisions:	
1. (a) The State Coastal Conservancy shall not enter into a grant contract with a nonprofit organization or local government for property acquisition unless the grant contract provides a reversionary interest to the state that specifies that the property shall not revert to the state without review and approval by the State Coastal Conservancy and the State Public Works Board.	
(b) The State Coastal Conservancy shall not enter into a grant contract with a nonprofit organization or local government for property acquisition that provides for a state leasehold interest in property acquired by a nonstate public agency with grant funds of the State Coastal Conservancy unless the Director of General Services approves the lease terms.	
(c) Except for the above, the expenditures of funds for grants to nonstate public agencies and nonprofit organizations shall be exempt from State Public Works Board review.	
2. The amount appropriated in this item is available for encumbrance for either capital outlay or local assistance until June 30, 2007.	
3760-301-6031—For capital outlay, State Coastal Conservancy, payable from the Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002	32,200,000
Schedule:	
(0.5) 80.02.032-Watershed, Water Quality Protection, and Enhancement Program	32,200,000
(1) 80.97.030-Conservancy Programs ..	500,000
(2) Reimbursements	-500,000
Provisions:	
1. The amount appropriated in this item is available for encumbrance for either capital outlay or local assistance until June 30, 2007.	
2. The funds appropriated in this item are conditioned upon all of the following:	
(a) The State Coastal Conservancy may not enter into a grant contract with a nonprofit organization or local government for property ac-	

Item	Amount
<p>quisition unless the grant contract provides a reversionary interest to the state that specifies that the property shall not revert to the state without review and approval by the State Coastal Conservancy and the State Public Works Board.</p>	
<p>(b) The State Coastal Conservancy may not enter into a grant contract with a nonprofit organization or local government for property acquisition that provides for a state leasehold interest in property acquired by a nonstate public agency with grant funds of the State Coastal Conservancy unless the Director of General Services approves the lease terms.</p>	
<p>(c) Except for the above, the expenditures of funds for grants to nonstate public agencies and nonprofit organizations shall be exempt from State Public Works Board review.</p>	
<p>3760-311-6031—For transfer by the Controller from the Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002 to the Habitat Conservation Fund.....</p>	1,348,000
<p>Provisions:</p>	
<p>1. The funds transferred in this item shall be used for purposes consistent with the requirements of the Habitat Conservation Fund and the requirements of subdivision (a) of Section 79570 of the Water Code.</p>	
<p>2. The amounts transferred by this item may be adjusted to reflect the requirements of subdivision (a) of Section 2796 of the Fish and Game Code.</p>	
<p>3760-490—Reappropriation, State Coastal Conservancy. The balance of the appropriations provided in the following citations are reappropriated for the purposes and subject to the limitations, unless otherwise specified, provided for in those appropriations, and shall be available for encumbrance or expenditure until June 2006.</p>	
<p>0005—Safe Neighborhood Parks, Clean Water, and Coastal Protection Bond Fund</p>	
<p>(1) Item 3760-302-0005, Budget Act of 2000 (Ch. 52, Stats. 2000)</p>	
<p>(2) 80.97.030-Conservancy Programs (B) Ballona Wetlands</p>	
<p>(2) Item 3760-301-0005, Budget Act of 2001 (Ch. 106, Stats. 2001)</p>	
<p>(7) 80.01.030-Laguna Coast Wilderness Park</p>	

Item	Amount
Provisions:	
1. The funds appropriated by subdivision (g) of Section 5096.352 of the Public Resources Code may be used pursuant to Division 21 (commencing with Section 31000) of the Public Resources Code to undertake projects for the South Coast Wilderness System of coastal canyons and watersheds in south Orange County, including, but not limited to, properties in Laguna Coast Wilderness Park and Aliso and Woods Canyons Wilderness Park.	
3780-001-0001—For support of Native American Heritage Commission	516,000
Schedule:	
(1) 10-Native American Heritage Commission	521,000
(2) Reimbursements	-5,000
3790-001-0001—For support of Department of Parks and Recreation	82,316,000
Schedule:	
(1) For support of the Department of Parks and Recreation	323,643,000
(2) Reimbursements	-33,887,000
(3) Less funding provided by capital outlay	-4,190,000
(4) Amount payable from the Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Fund (Item 3790-001-0005).....	-12,441,000
(5) Amount payable from the California Environmental License Plate Fund (Item 3790-001-0140).....	-1,637,000
(6) Amount payable from the Public Resources Account, Cigarette and Tobacco Products Surtax Fund (Item 3790-001-0235)	-10,729,000
(7) Amount payable from the Off-Highway Vehicle Trust Fund (Item 3790-001-0263)	-37,818,000
(8) Amount payable from the State Parks and Recreation Fund (Item 3790-001-0392).....	-117,079,000
(9) Amount payable from the Winter Recreation Fund (Item 3790-001-0449).....	-342,000
(10) Amount payable from the Harbors and Watercraft Revolving Fund (Item 3790-001-0516)	-701,000

Item	Amount
(11) Amount payable from the Federal Trust Fund (Item 3790-001-0890).	-3,527,000
(11.5) Amount payable from the California Main Street Program Fund (Item 3790-001-3077).....	-175,000
(12) Amount payable from the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Fund (Item 3790-001-6029)	-18,343,000
(13) Amount payable from the Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002 (Item 3790-001-6031)	-458,000
Provisions:	
1. Of the funds appropriated by this act from the General Fund and special funds, other than the Off-Highway Vehicle Trust Fund and bond funds, to the Department of Parks and Recreation for local assistance grants to local agencies, the department may allocate an amount not to exceed 1.5 percent of each project's allocation to provide for the department's costs to administer these grants.	
2. It is the intent of the Legislature that salaries, wages, operating expenses, and positions associated with implementing specific Department of Parks and Recreation capital outlay projects continue to be funded through capital outlay appropriations, and that these funds and related position authority should also be reflected in the department's state operations budget in the Governor's Budget and Budget Bill with an offsetting payable from the capital outlay appropriation.	
3790-001-0005—For support of Department of Parks and Recreation, for payment to Item 3790-001-0001, payable from the Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Fund	12,441,000
3790-001-0140—For support of Department of Parks and Recreation, for payment to Item 3790-001-0001, payable from the California Environmental License Plate Fund.....	1,637,000
3790-001-0235—For support of Department of Parks and Recreation, for payment to Item 3790-001-0001, payable from the Public Resources Account, Cigarette and Tobacco Products Surtax Fund.....	10,729,000

Item	Amount
3790-001-0263—For support of Department of Parks and Recreation, for payment to Item 3790-001-0001, payable from the Off-Highway Vehicle Trust Fund	37,818,000
3790-001-0392—For support of Department of Parks and Recreation, for payment to Item 3790-001-0001, payable from the State Parks and Recreation Fund	117,079,000
3790-001-0449—For support of Department of Parks and Recreation, for payment to Item 3790-001-0001, payable from the Winter Recreation Fund	342,000
3790-001-0516—For support of Department of Parks and Recreation, for payment to Item 3790-001-0001, payable from the Harbors and Watercraft Revolving Fund	701,000
3790-001-0890—For support of Department of Parks and Recreation, for payment to Item 3790-001-0001, payable from the Federal Trust Fund.....	3,527,000
3790-001-3077—For support of Department of Parks and Recreation, for payment to Item 3790-001-0001, payable from the California Main Street Program Fund	175,000
3790-001-6029—For support of Department of Parks and Recreation, for payment to Item 3790-001-0001, payable from the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Fund	18,343,000
3790-001-6031—For support of Department of Parks and Recreation, payable to Item 3790-001-0001, from the Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002	458,000
3790-011-0062—For transfer by the Controller to the State Parks and Recreation Fund, as prescribed by subdivision (a) of Section 2107.7 of the Streets and Highways Code, for expenditure by the Department of Parks and Recreation for maintenance and repair of highways in units of the State Park System, payable from the Highway Users Tax Account, Transportation Tax Fund	(3,400,000)
3790-012-0061—For transfer by the Controller from the Motor Vehicle Fuel Account, Transportation Tax Fund to the State Parks and Recreation Fund	(26,649,000)
Provisions:	
1. Notwithstanding any other provision of law, the amount appropriated in this item normally transferred to the Harbors and Watercraft Revolving	

Item	Amount
<p>Fund from the Motor Vehicle Fuel Account, Transportation Tax Fund, shall be available for transfer to the State Parks and Recreation Fund.</p>	
<p>3790-101-0262—For local assistance, Department of Parks and Recreation, payable from the Habitat Conservation Fund, to be available for expenditure through fiscal year 2006–07</p>	3,705,000
<p>Schedule:</p>	
<p>(1) 80.25-Recreational Grants</p>	2,205,000
<p>(2) 80.28-Local Projects.....</p>	1,500,000
<p> (a) Monterey County, Monterey Peninsula Regional Park District-Santa Lucia Mountain Range.....(1,500,000)</p>	
<p>Provisions:</p>	
<p>1. The funds appropriated by this item shall be available only for projects submitted to the Department of Parks and Recreation for consideration during the evaluation process for the Habitat Conservation Fund Program.</p>	
<p>3790-101-0263—For local assistance, Department of Parks and Recreation, payable from the Off-Highway Vehicle Trust Fund, for grants to cities, counties, federal agencies or special districts, as specified in Section 5090.50 of the Public Resources Code, to be available for expenditure through fiscal year 2006–07</p>	17,000,000
<p>Schedule:</p>	
<p>(1) 80.12-OHV Grants</p>	17,000,000
<p>3790-101-0383—For local assistance, Department of Parks and Recreation, payable from the Natural Resources Infrastructure Fund, available for expenditure through June 30, 2007</p>	2,700,000
<p>Provisions:</p>	
<p>1. The funds appropriated in this item shall be available to the City of Los Angeles, Department of Parks and Recreation.</p>	
<p>3790-101-0858—For local assistance, Department of Parks and Recreation, payable from the Recreational Trails Fund, to be available for expenditure through fiscal year 2006–07</p>	6,200,000
<p>Schedule:</p>	
<p>(1) 80.12-OHV Grants</p>	1,200,000
<p>(2) 80.25-Recreational Grants</p>	5,000,000

Item	Amount
Provisions:	
1. The funds appropriated in Schedules (1) and (2) shall be available for expenditure for local assistance or capital outlay.	
2. Of the funds appropriated, the department may allocate, to the maximum extent allowable under federal law, the amount necessary to provide for the department's costs to administer these grants.	
3. Grants may be made to nonprofit organizations and government entities.	
3790-101-0890—For local assistance, Department of Parks and Recreation, payable from the Federal Trust Fund, to be available for expenditure through fiscal year 2006–07	14,200,000
Schedule:	
(1) 80.25-Recreational Grants	13,000,000
(2) 80.30-Historic Preservation Grants	1,200,000
Provisions:	
1. The funds appropriated in Schedules (1) and (2) shall be available for expenditure for local assistance or capital outlay.	
3790-101-6029—For local assistance, Department of Parks and Recreation, payable from the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Fund, to be available for expenditure until June 30, 2007	78,413,000
Schedule:	
(1) 80.25-Recreational Grants	78,413,000
(a) Roberti-Z'berg-Harris	(31,739,000)
(b) California Youth Soccer and Recreation Development Program	(23,337,000)
(c) State Urban Parks and Healthy Communities Act	(23,337,000)
Provisions:	
1. Funds appropriated in this item shall be available for liquidation of encumbrances until June 30, 2012.	
3790-301-0005—For capital outlay, Department of Parks and Recreation, payable from the Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Fund	25,639,000

Item	Amount
Schedule:	
(0.1) 90.EX.101-Malibu Creek SP: Restore Sepulveda Adobe—Working drawings and construction	1,233,000
(0.2) 90.E4.103-Chino Hills SP: Visitor Center—Construction and equipment	1,667,000
(1) 90.GI.101-Crystal Cove SP: El Morro Mobilehome Park Conversion—Construction.....	10,047,000
(2) 90.RS.235-Statewide: Volunteer Enhancement Program—Minor Projects	345,000
(3) 90.RS.601-Statewide: Budget Development—Study	150,000
(4) 90.6F.101-Angel Island SP: Immigration Station Area Restoration—Construction	12,484,000
(5) Reimbursement-Crystal Cove SP: El Morro Mobilehome Park Conversion	-287,000
Provisions:	
1. The funds appropriated in Schedule (3) of this item shall be used to develop design information or cost information for new projects for which funds have not been appropriated previously, but that are anticipated to be included in the Governor’s Budget for the 2005–06 and 2006–07 fiscal years.	
3790-301-0262—For capital outlay, Department of Parks and Recreation, payable from the Habitat Conservation Fund	1,000,000
Schedule:	
(1) 90.RS.406-Habitat Conservation: Proposed Additions—Acquisition .	1,000,000
3790-301-0263—For capital outlay, Department of Parks and Recreation, payable from the Off-Highway Vehicle Trust Fund	10,740,000
Schedule:	
(1) 90.A7.102-Prairie City SVRA: Improvement Project—Working drawings and construction	6,519,000
(2) 90.RS.206-Statewide: OHV Minors—Minor projects	2,221,000

Item	Amount
(3) 90.RS.405-Statewide: OHV Opportunity Purchase/Budget Package/Schematic Planning—Acquisition and study.....	400,000
(4) 90.20.002-Unallocated Capital Outlay.....	1,600,000
Provisions:	
1. The funds appropriated in Schedule (3) of this item shall be used to develop design information or cost information for new projects for which funds have not been appropriated previously, but which are anticipated to be included in the Governor’s Budget for the 2005–06 or 2006–07 fiscal year.	
3790-301-0890—For capital outlay, Department of Parks and Recreation, payable from the Federal Trust Fund.....	3,700,000
Schedule:	
(1) 90.RS.801-Federal Trust Fund Program—Acquisition, preliminary plans, working drawings and construction	3,700,000
3790-301-6029—For capital outlay, Department of Parks and Recreation, payable from the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Fund.....	29,903,000
Schedule:	
(0.5) 90.AC.101-Railroad Technology Museum: Rehabilitation and Facilities Plan—Working drawings and construction.....	11,626,000
(1) 90.BA.101-Big Basin Redwoods SP: Wastewater Collection/Treatment System Improvements—Construction and equipment	1,066,000
(2) 90.CB.102-Morro Bay SP: Sewer System Improvements—Construction	968,000
(2.1) 90.EX.103-Malibu Creek SP: Rehabilitate Public Use Facilities at Tapia—Preliminary plans	404,000
(2.2) 90.E4.104-Chino Hills SP: Entrance Road and Facilities—Working drawings.....	192,000

Item	Amount
(2.3) 90.E4.105-Chino Hills SP: Coal Canyon Wildlife Corridor Restoration—Construction	1,054,000
(2.4) 90.FO.101-Huntington SB: Expand Lifeguard Headquarters/ Training Facility—Working drawings, construction, and equipment.	3,736,000
(2.5) 90.FW.101-Topanga SP: Public Use Improvements—Preliminary plans and working drawings	574,000
(2.6) 90.GY.101-Doheny SB: New Lifeguard Headquarters—Construction and equipment	1,121,000
(2.7) 90.IH.101-Lake Perris SRA: Replace Lifeguard Headquarters—Construction and equipment	824,000
(2.8) 90.RS.205-Statewide: State Park System—Minor projects	2,647,000
(3) 90.RS.810-Capital Outlay Projects—Acquisition, preliminary plans, working drawings, construction, and minor projects	3,000,000
(3.3) 90.3I.101-Shasta SHP: Southside Ruins Stabilization—Preliminary plans	521,000
(4) 90.5R.102-Fort Ross SHP: Water System Improvements—Construction	1,092,000
(5) 90.6H.101-Samuel P. Taylor SP: Install New Concrete Reservoirs—Preliminary plans	199,000
(5.1) 90.8D.102-Donner Memorial SP: New Visitor Center—Working drawings, construction, and equipment	5,927,000
(5.2) 90.8I.101-Calaveras Big Trees SP: New Visitor Center—Working drawings, construction, and equipment	3,653,000
(5.3) 90.8X.101-Plumas-Eureka SP: Historic Stamp Mill Preservation—Study and partial construction	901,000
(5.4) 90.42.101-MacKerricher SP: Rehabilitate Historic Pudding Creek Trestle—Construction	1,939,000

Item	Amount
(5.5) Reimbursement-Railroad Technology Museum: Rehabilitation and Facilities Plan.....	-5,000,000
(5.6) Reimbursement-Calaveras Big Trees SP: New Visitor Center.....	-500,000
(5.7) Reimbursement-Donner Memorial SP: Visitor Center.....	-3,041,000
(6) Reimbursement-Capital Outlay Projects	-3,000,000

Provisions:

1. Prior to encumbering any funds appropriated in Schedule (3) of this item the Department of Parks and Recreation must submit project scope information to the Department of Finance, and acquire approval for the project from the Department of Finance.

3790-401—For the 2004–05 fiscal year, the balance as of July 1, 2004, deposits in, and accruals to the Conservation and Enforcement Services Account in the Off-Highway Vehicle Trust Fund shall be transferred by the State Controller to the Off-Highway Vehicle Trust Fund. All funds transferred pursuant to this item shall be available for expenditure by the Department of Parks and Recreation for purposes of conservation and enforcement activities pursuant to Section 5090.64 of the Public Resources Code which are authorized for expenditure within Items 3790-001-0263, 3790-101-0263, and 3790-301-0263. The Controller shall make the transfers quarterly or at such intervals as determined necessary to meet the cashflow needs of the Off-Highway Vehicle Trust Fund.

3790-490—Reappropriation, Department of Parks and Recreation. Notwithstanding any other provision of law, the period to liquidate encumbrances of the following citations is extended to June 30, 2010:

- 6029—California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Fund
 - (1) Item 3790-101-6029(1)(a), Budget Act of 2002 (Ch. 379, Stats. 2002), Urban Park Grants
 - (2) Item 3790-101-6029(1)(b), Budget Act of 2002 (Ch. 379, Stats. 2002), Murray-Hayden Competitive Grants

Item	Amount
3790-491—Reappropriation, Department of Parks and Recreation. The balances of the appropriations provided in the following citations are reappropriated for the purposes and subject to the limitations, unless otherwise specified, provided for in the appropriations:	
0005—Safe Neighborhood Parks, Clean Water, Clean Air and Coastal Protection Bond Fund	
(1) Item 3790-302-0005, Budget Act of 2000 (Ch. 52, Stats. 2000), as partially reappropriated by Item 3790-490, Budget Act of 2003 (Ch. 157, Stats. 2003)	
(16) 90.64.100-East Bay Regional Park District: Complete the community planning process, provide design services, and construct public improvements in East Bay Shoreline project	
(2) Item 3790-301-0005, Budget Act of 2001 (Ch. 106, Stats. 2001)	
(27) 90.RS.409-Statewide: 2000 Bond Opportunity Purchases Acquisition Program—Acquisition	
(28) 90.RS.415-Statewide: 2000 Bond Redwood Acquisition Program—Acquisition	
(29) 90.RS.416-Statewide: 2000 Bond Habitat Acquisition Program—Acquisition	
(30.93) 90.FW.100-Topanga SP: Topanga Canyon—Acquisition	
(3) Item 3790-302-0005, Budget Act of 2001 (Ch. 106, Stats. 2001)	
(13) 90.7T.400-Pigeon Point Light Station SHP: Bolsa Point/Whaler's Cove—Acquisition	
(4) Item 3790-301-0005, Budget Act of 2003 (Ch. 157, Stats. 2003)	
(3) 90.CG.101-Pfeiffer Big Sur SP: Park Entrance and Day Use Redevelopment—Construction and Equipment	
0262—Habitat Conservation Fund	
(1) Item 3790-301-0262, Budget Act of 2001 (Ch. 106, Stats. 2001)	
(1) 90.RS.406-Habitat Conservation: Proposed Additions—Acquisition	
0263—Off-Highway Vehicle Trust Fund	
(1) Item 3790-301-0263, Budget Act of 2001 (Ch. 106, Stats. 2001)	
(1) 90.7C.400-Oceano Dunes SVRA: La Grande Tract—Acquisition	

Item	Amount
<p>(5) 90.RS.405-Statewide: OHV Opportunity Purchase/Prebudget Appraisal—Acquisition 6029—California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Fund</p> <p>(1) Item 3790-301-6029, Budget Act of 2003 (Ch. 157, Stats. 2003)</p> <p>(23) 90.94.103-Leland Stanford Mansion SHP: Rehabilitation of Mansion Grounds—Preliminary plans, working drawings, construction, and equipment</p> <p>3790-492—Reappropriation, Department of Parks and Recreation. Notwithstanding any other provision of law, the period to liquidate encumbrances of the following citation is extended to June 30, 2005:</p> <p>0005—Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Fund</p> <p>(1) Item 3790-302-0005, Budget Act of 2001 (Ch. 106, Stats. 2001)</p> <p>(15) 90.FH.100-Santa Monica SB: 415 PCH Project—EIRs and planning</p> <p>3790-493—Extension of Liquidation Period, Department of Parks and Recreation. The balances of the appropriations provided in the following citations are reappropriated for the purposes and subject to the limitations, unless otherwise specified, provided for in the following appropriations:</p> <p>0001—General Fund</p> <p>(1) Item 3790-101-0001, Budget Act of 1999 (Ch. 50, Stats. 1999)</p> <p>(a) 80.25-Recreational Grants</p> <p>(.5) Highland Senior Center: Swimming Pool</p> <p>Notwithstanding any other provision of law, the balance as of June 30, 2004 is reappropriated to the City of Highland for allocation to the Highland Community Center for the construction of a swimming pool.</p> <p>(2) Item 3790-101-0001, Budget Act of 1999 (Ch. 50, Stats. 1999), as amended by subdivision (a) of Section 15 of Chapter 1021 of the Statutes of 1999, Plaza Community Center organization to construct a teen center and to complete the Senior Citizen Civic Center in the City Terrace neighborhood of Los Angeles.</p> <p>0262—Habitat Conservation Fund</p> <p>(1) Item 3790-101-0262, Budget Act of 1999 (Ch. 50, Stats. 1999)</p>	

Item	Amount
<ul style="list-style-type: none"> (1) 80.25.001-Local Grants-Habitat Conservation Fund Program 	
<p>3790-494—Reappropriation, Department of Parks and Recreation. The balances of the appropriations provided in the following citations are reappropriated for the purposes provided for in those appropriations, and shall be available for encumbrance or expenditure until June 30, 2005:</p> <p>0001—General Fund</p> <ul style="list-style-type: none"> (1) Item 3790-101-0001, Budget Act of 1999 (Ch. 50, Stats. 1999) <ul style="list-style-type: none"> (a) 80.25-Recreational Grants <ul style="list-style-type: none"> (186) City of La Palma: Construct new community or senior center. Notwithstanding any other provision of law, the balance as of June 30, 2004, is reappropriated to the City of La Palma for renovation, repair, and other capital outlay work on the community center. <p>0005—Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Fund</p> <ul style="list-style-type: none"> (1) Item 3790-101-0005, Budget Act of 2001 (Ch. 106, Stats. 2001) <ul style="list-style-type: none"> (3) 80.28-Local Projects <ul style="list-style-type: none"> (c) Major League Baseball Urban Youth Foundation: Major League Baseball Academy, provided that the funds shall be granted to the following entity: City of Los Angeles, to be used for the Sheldon-Arleta Sportsfield Complex. (2) Item 3790-102-0005, Budget Act of 2000 (Ch. 52, Stats. 2000) <ul style="list-style-type: none"> (a) 80.25-Recreational Grants <ul style="list-style-type: none"> (5) Murray-Hayden Grants (q) City of Los Angeles: Community Build Youth Center <p>3810-001-0140—For support of Santa Monica Mountains Conservancy, payable from the California Environmental License Plate Fund</p>	200,000
Schedule:	
<ul style="list-style-type: none"> (1) 10-Santa Monica Mountains Conservancy 	629,000

Item	Amount
(2) Amount payable from the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Fund (Item 3810-001-6029).....	-218,000
(3) Amount payable from the Water Security, Clean Drinking Water, Coastal, and Beach Protection Fund of 2002 (Item 3810-001-6031).....	-211,000
Provisions:	
1. Notwithstanding Article 4 (commencing with Section 11040) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code, the Attorney General shall continue to provide legal services to the Santa Monica Mountains Conservancy consistent with the manner in which the Attorney General provides legal services to state agencies that are funded by appropriations made from the General Fund.	
2. (a) The Santa Monica Mountains Conservancy shall not encumber state appropriated funds for the purchase or acquisition of real property directly or through any public agency intermediary, including the State Public Works Board, that requires the payment of interest costs, or late fees or penalties, unless the conservancy certifies all of the following: (1) that the purchase is necessary to implement an acquisition identified in the high-priority category of the work program submitted annually to the Legislature pursuant to Section 33208 of the Public Resources Code, or amendments made thereto, (2) that the purchase agreement does not involve interest payments or terms in excess of those that the State Public Works Board may enter into pursuant to Section 15854.1 of the Government Code, and (3) that the purchase agreement does not commit the state to future appropriations.	
(b) The Santa Monica Mountains Conservancy shall report periodically to the Legislature, but no less frequently than twice yearly, concerning the status of any purchases certified	

Item	Amount
as required in (a) and the amount of state funds thus far encumbered for interest, penalties, or other principal surcharges.	
3810-001-6029—For support of the Santa Monica Mountains Conservancy, for payment to Item 3810-001-0140, payable from the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Fund	218,000
3810-001-6031—For support of Santa Monica Mountains Conservancy, for payment to Item 3810-001-0140, payable from the Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002.....	211,000
3810-301-0005—For Capital Outlay, Santa Monica Mountains Conservancy, payable from the Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Fund.....	2,705,000
Schedule:	
(1) Capital Outlay Acquisitions	2,705,000
Provisions:	
1. The Santa Monica Mountains Conservancy may encumber these funds for either capital outlay or local assistance grants through June 30, 2007. The conservancy shall not encumber these funds for any grant not previously approved by the Office of the Attorney General.	
2. The Santa Monica Mountains Conservancy shall submit a revised cost allocation methodology to the Department of Finance no later than September 1, 2004, that shall be applied to grants made from this appropriation. The Department of Finance shall review this revised methodology for its reasonableness. The Department of Finance may either recommend approval of the revised methodology as presented or recommend modifications to the methodology. In either case, the Director of Finance shall provide notification of the department’s recommendation in writing to the Chairperson of the Joint Legislative Budget Committee. The Chairperson of the Joint Legislative Budget Committee shall either approve or reject the recommendation within 30 days of the date of notification. If the chairperson does not approve or reject the department’s recommendation within 30 days, the department’s recommendation will be deemed approved.	

Item

Amount

3. The Santa Monica Mountains Conservancy shall provide the services of the conservancy's executive director and of other conservancy staff to a joint powers authority only to the extent that the sharing of services is permitted by law, as determined by the Office of the Attorney General.
4. The Santa Monica Mountains Conservancy shall develop and implement procedures in response to the Final Management Letter from the Department of Finance, dated May 4, 2004, that assure the separation of functions with respect to fiscal operations of joint powers authorities. These procedures shall include procedures whereby all financial transactions of the joint powers authority are supervised by officers and employees who are separate from the conservancy and do not report to any officers or employees of the conservancy in any capacity. The conservancy shall provide a report on those procedures and their implementation to the chairpersons of the fiscal committees and appropriate subcommittees of each house of the Legislature by January 1, 2005. For the purposes of this provision, "fiscal operations" and "financial transactions" refer to any and all activities involving the receipt, tracking, and paying out of moneys, including, but not limited to, accounting, auditing, payroll, and contract disbursement activities.
5. The Santa Monica Mountains Conservancy shall issue grants from this appropriation only in accordance with the General Obligation Bond Law and the specific provisions of the bond funds from which appropriations have been made, and according to advice it has received from the Office of the Attorney General, and, if appropriate, from the Office of the State Treasurer, respecting the permissible use of bond funds available to the conservancy.
6. The Santa Monica Mountains Conservancy shall secure refunds from the Mountains Recreation and Conservation Authority of the unencumbered balances of previous years' grants made from this funding source to the conservancy. For the purposes of this provision, "unencumbered balance" means funds that are not essential to fulfill the obligations of an enforceable, legal, and binding contract as determined by the Office of the Attor-

Item

Amount

ney General, taking into account the advice of the Office of the State Treasurer with respect to federal tax issues. These funds shall remain available for encumbrance according to the terms of the initial appropriation and all the budget control language included in this act.

- 7. Any time that the Office of the Attorney General concludes that any use of bond funds has not been consistent with the opinion standard, the Santa Monica Mountains Conservancy shall follow the instructions of the Attorney General with respect to recovery, refund, or other settlement.
- 8. The Santa Monica Mountains Conservancy shall follow the advice of the Office of the Attorney General with respect to the refund of \$491,841 in overhead on the grant for acquisition of the Avatar property.
- 9. Funds from the Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Act of 2000 (Item 3810-301-0005) shall not be available to the Santa Monica Mountains Conservancy until the Department of Finance has confirmed that those amounts are actually available as a result of refunds from prior appropriations.
- 10. It is the intent of the Legislature that the Department of Personnel Administration and the Department of Finance shall approve the reclassification of one or more of the Santa Monica Mountains Conservancy's authorized positions to improve fiscal and contracts management.

3810-301-0941—For Capital Outlay, Santa Monica Mountains Conservancy, payable from the Santa Monica Mountains Conservancy Fund.....

118,000

Schedule:

(1) Capital Outlay Acquisitions 118,000

Provisions:

- 1. The Santa Monica Mountains Conservancy may encumber these funds for either capital outlay or local assistance grants through June 30, 2007. The conservancy shall not encumber these funds for any grant not previously approved by the Office of the Attorney General.
- 2. The Santa Monica Mountains Conservancy shall submit a revised cost allocation methodology to the Department of Finance no later than September 1, 2004, that shall be applied to grants made from this appropriation. The Department of Fi-

Item

Amount

nance shall review this revised methodology for its reasonableness. The Department of Finance may either recommend approval of the revised methodology as presented or recommend modifications to the methodology. In either case, the Director of Finance shall provide notification of the department's recommendation in writing to the Chairperson of the Joint Legislative Budget Committee. The Chairperson of the Joint Legislative Budget Committee shall either approve or reject the recommendation within 30 days of the date of notification. If the chairperson does not approve or reject the department's recommendation within 30 days, the department's recommendation will be deemed approved.

3. The Santa Monica Mountains Conservancy shall provide the services of the conservancy's executive director and of other conservancy staff to a joint powers authority only to the extent that the sharing of services is permitted by law, as determined by the Office of the Attorney General.
4. The Santa Monica Mountains Conservancy shall develop and implement procedures in response to the Final Management Letter from the Department of Finance, dated May 4, 2004, that assure the separation of functions with respect to fiscal operations of joint powers authorities. These procedures shall include procedures whereby all financial transactions of the joint powers authority are supervised by officers and employees who are separate from the conservancy and do not report to any officers or employees of the conservancy in any capacity. The conservancy shall provide a report on those procedures and their implementation to the chairpersons of the fiscal committees and appropriate subcommittees of each house of the Legislature by January 1, 2005. For the purposes of this provision, "fiscal operations" and "financial transactions" refer to any and all activities involving the receipt, tracking, and paying out of moneys, including, but not limited to, accounting, auditing, payroll, and contract disbursement activities.
5. The Santa Monica Mountains Conservancy shall issue grants from this appropriation only in accordance with the General Obligation Bond Law and the specific provisions of the bond funds from

Item

Amount

- which appropriations have been made, and according to advice it has received from the Office of the Attorney General, and, if appropriate, from the Office of the State Treasurer, respecting the permissible use of bond funds available to the conservancy.
6. The Santa Monica Mountains Conservancy shall secure refunds from the Mountains Recreation and Conservation Authority of the unencumbered balances of previous years' grants made from this funding source to the conservancy. For the purposes of this provision, "unencumbered balance" means funds that are not essential to fulfill the obligations of an enforceable, legal, and binding contract as determined by the Office of the Attorney General, taking into account the advice of the Office of the State Treasurer with respect to federal tax issues. These funds shall remain available for encumbrance according to the terms of the initial appropriation and all the budget control language included in this act.
 7. Any time that the Office of the Attorney General concludes that any use of bond funds has not been consistent with the opinion standard, the Santa Monica Mountains Conservancy shall follow the instructions of the Attorney General with respect to recovery, refund, or other settlement.
 8. The Santa Monica Mountains Conservancy shall follow the advice of the Office of the Attorney General with respect to the refund of \$491,841 in overhead on the grant for acquisition of the Avatar property.
 9. Funds from the Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Act of 2000 (Item 3810-301-0005) shall not be available to the Santa Monica Mountains Conservancy until the Department of Finance has confirmed that those amounts are actually available as a result of refunds from prior appropriations.
 10. It is the intent of the Legislature that the Department of Personnel Administration and the Department of Finance shall approve the reclassification of one or more of the Santa Monica Mountains Conservancy's authorized positions to improve fiscal and contracts management.

Item	Amount
3810-301-6029—For Capital Outlay, Santa Monica Mountains Conservancy, payable from the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Fund	12,400,000

Schedule:

(1) Capital Outlay Acquisitions 12,400,000
Provisions:

1. The Santa Monica Mountains Conservancy may encumber these funds for either capital outlay or local assistance grants through June 30, 2007. The conservancy shall not encumber these funds for any grant not previously approved by the Office of the Attorney General.
2. The Santa Monica Mountains Conservancy shall submit a revised cost allocation methodology to the Department of Finance no later than September 1, 2004, that shall be applied to grants made from this appropriation. The Department of Finance shall review this revised methodology for its reasonableness. The Department of Finance may either recommend approval of the revised methodology as presented or recommend modifications to the methodology. In either case, the Director of Finance shall provide notification of the department’s recommendation in writing to the Chairperson of the Joint Legislative Budget Committee. The Chairperson of the Joint Legislative Budget Committee shall either approve or reject the recommendation within 30 days of the date of notification. If the chairperson does not approve or reject the department’s recommendation within 30 days, the department’s recommendation will be deemed approved.
3. The Santa Monica Mountains Conservancy shall provide the services of the conservancy’s executive director and of other conservancy staff to a joint powers authority only to the extent that the sharing of services is permitted by law, as determined by the Office of the Attorney General.
4. The Santa Monica Mountains Conservancy shall develop and implement procedures in response to the Final Management Letter from the Department of Finance, dated May 4, 2004, that assure the separation of functions with respect to fiscal operations of joint powers authorities. These procedures shall include procedures whereby all financial transactions of the joint powers authority

Item

Amount

are supervised by officers and employees who are separate from the conservancy and do not report to any officers or employees of the conservancy in any capacity. The conservancy shall provide a report on those procedures and their implementation to the chairpersons of the fiscal committees and appropriate subcommittees of each house of the Legislature by January 1, 2005. For the purposes of this provision, "fiscal operations" and "financial transactions" refer to any and all activities involving the receipt, tracking, and paying out of moneys, including, but not limited to, accounting, auditing, payroll, and contract disbursement activities.

5. The Santa Monica Mountains Conservancy shall issue grants from this appropriation only in accordance with the General Obligation Bond Law and the specific provisions of the bond funds from which appropriations have been made, and according to advice it has received from the Office of the Attorney General, and, if appropriate, from the Office of the State Treasurer, respecting the permissible use of bond funds available to the conservancy.
6. The Santa Monica Mountains Conservancy shall secure refunds from the Mountains Recreation and Conservation Authority of the unencumbered balances of previous years' grants made from this funding source to the conservancy. For the purposes of this provision, "unencumbered balance" means funds that are not essential to fulfill the obligations of an enforceable, legal, and binding contract as determined by the Office of the Attorney General, taking into account the advice of the Office of the State Treasurer with respect to federal tax issues. These funds shall remain available for encumbrance according to the terms of the initial appropriation and all the budget control language included in this act.
7. Any time that the Office of the Attorney General concludes that any use of bond funds has not been consistent with the opinion standard, the Santa Monica Mountains Conservancy shall follow the instructions of the Attorney General with respect to recovery, refund, or other settlement.

Item	Amount
8. The Santa Monica Mountains Conservancy shall follow the advice of the Office of the Attorney General with respect to the refund of \$491,841 in overhead on the grant for acquisition of the Avatar property.	
9. Funds from the Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Act of 2000 (Item 3810-301-0005) shall not be available to the Santa Monica Mountains Conservancy until the Department of Finance has confirmed that those amounts are actually available as a result of refunds from prior appropriations.	
10. It is the intent of the Legislature that the Department of Personnel Administration and the Department of Finance shall approve the reclassification of one or more of the Santa Monica Mountains Conservancy's authorized positions to improve fiscal and contracts management.	
3810-301-6031—For Capital Outlay, Santa Monica Mountains Conservancy, payable from the Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002	9,500,000
Schedule:	
(1) Capital Outlay Acquisitions	9,500,000
Provisions:	
1. The Santa Monica Mountains Conservancy may encumber these funds for either capital outlay or local assistance grants through June 30, 2007. The conservancy shall not encumber these funds for any grant not previously approved by the Office of the Attorney General.	
2. The Santa Monica Mountains Conservancy shall submit a revised cost allocation methodology to the Department of Finance no later than September 1, 2004, that shall be applied to grants made from this appropriation. The Department of Finance shall review this revised methodology for its reasonableness. The Department of Finance may either recommend approval of the revised methodology as presented or recommend modifications to the methodology. In either case, the Director of Finance shall provide notification of the department's recommendation in writing to the Chairperson of the Joint Legislative Budget Committee. The Chairperson of the Joint Legislative Budget Committee shall either approve or reject the recommendation within 30 days of the date of	

Item

Amount

- notification. If the chairperson does not approve or reject the department's recommendation within 30 days, the department's recommendation will be deemed approved.
3. The Santa Monica Mountains Conservancy shall provide the services of the conservancy's executive director and of other conservancy staff to a joint powers authority only to the extent that the sharing of services is permitted by law, as determined by the Office of the Attorney General.
 4. The Santa Monica Mountains Conservancy shall develop and implement procedures in response to the Final Management Letter from the Department of Finance, dated May 4, 2004, that assure the separation of functions with respect to fiscal operations of joint powers authorities. These procedures shall include procedures whereby all financial transactions of the joint powers authority are supervised by officers and employees who are separate from the conservancy and do not report to any officers or employees of the conservancy in any capacity. The conservancy shall provide a report on those procedures and their implementation to the chairpersons of the fiscal committees and appropriate subcommittees of each house of the Legislature by January 1, 2005. For the purposes of this provision, "fiscal operations" and "financial transactions" refer to any and all activities involving the receipt, tracking, and paying out of moneys, including, but not limited to, accounting, auditing, payroll, and contract disbursement activities.
 5. The Santa Monica Mountains Conservancy shall issue grants from this appropriation only in accordance with the General Obligation Bond Law and the specific provisions of the bond funds from which appropriations have been made, and according to advice it has received from the Office of the Attorney General, and, if appropriate, from the Office of the State Treasurer, respecting the permissible use of bond funds available to the conservancy.
 6. The Santa Monica Mountains Conservancy shall secure refunds from the Mountains Recreation and Conservation Authority of the unencumbered balances of previous years' grants made from this funding source to the conservancy. For the pur-

Item

Amount

poses of this provision, “unencumbered balance” means funds that are not essential to fulfill the obligations of an enforceable, legal, and binding contract as determined by the Office of the Attorney General, taking into account the advice of the Office of the State Treasurer with respect to federal tax issues. These funds shall remain available for encumbrance according to the terms of the initial appropriation and all the budget control language included in this act.

- 7. Any time that the Office of the Attorney General concludes that any use of bond funds has not been consistent with the opinion standard, the Santa Monica Mountains Conservancy shall follow the instructions of the Attorney General with respect to recovery, refund, or other settlement.
- 8. The Santa Monica Mountains Conservancy shall follow the advice of the Office of the Attorney General with respect to the refund of \$491,841 in overhead on the grant for acquisition of the Avatar property.
- 9. Funds from the Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Act of 2000 (Item 3810-301-0005) shall not be available to the Santa Monica Mountains Conservancy until the Department of Finance has confirmed that those amounts are actually available as a result of refunds from prior appropriations.
- 10. It is the intent of the Legislature that the Department of Personnel Administration and the Department of Finance shall approve the reclassification of one or more of the Santa Monica Mountains Conservancy’s authorized positions to improve fiscal and contracts management.

3820-001-0001—For support of San Francisco Bay Conservation and Development Commission	3,113,000
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Schedule:

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|---|-----------|
| (1) 10-Bay Conservation and Development | 3,942,000 |
| (2) Amount payable from the Bay Fill Clean-Up and Abatement Fund (Item 3820-001-0914) | -171,000 |
| (3) Reimbursements | -658,000 |

Provisions:

- 1. It is the intent of the Legislature that the San Francisco Bay Conservation and Development Commission revise its permit fee schedule to increase

Item	Amount
<p>fee revenues to at least 20 percent of the amount appropriated in this item to support the operation of the commission’s regulatory program.</p> <p>2. It is the intent of the Legislature that the Governor’s annual budget document display the commission’s permit fee revenues for prior, current, and budget years.</p>	
<p>3820-001-0914—For support of San Francisco Bay Conservation and Development Commission, for payment to Item 3820-001-0001, payable from the Bay Fill Clean-Up and Abatement Fund.....</p>	171,000
<p>3825-001-0140—For support of San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy, payable from the California Environmental License Plate Fund.....</p>	33,000
Schedule:	
<p>(1) 10-San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy</p>	767,000
<p>(2) Amount payable from the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Fund (Item 3825-001-6029).....</p>	-734,000
Provisions:	
<p>1. Acquisitions and enhancements administered pursuant to this item shall not be undertaken if they would require increased state funds for management purposes.</p>	
<p>3825-001-6029—For support of San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy, for payment to Item 3825-001-0140 payable from the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Fund.....</p>	734,000
<p>3825-301-6029—For capital outlay, San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy, payable from the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Fund</p>	6,200,000
Provisions:	
<p>1. The funds appropriated in this item are available for expenditure for capital outlay or local assistance until June 30, 2007.</p>	

Item	Amount
3825-301-6031—For capital outlay, San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy, payable from the Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002	6,200,000
Provisions:	
1. The funds appropriated in this item are available for expenditure for capital outlay or local assistance until June 30, 2007.	
3830-001-0140—For support of San Joaquin River Conservancy, payable from the California Environmental License Plate Fund	241,000
Schedule:	
(1) 10-San Joaquin River Conservancy. 347,000	
(2) Amount payable from the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Fund (Item 3830-001-6029).....	-106,000
Provisions:	
1. Acquisitions and enhancements administered pursuant to this item shall not be undertaken if they would require increased state funds for management purposes.	
3830-001-6029—For support of San Joaquin River Conservancy, for payment to Item 3830-001-0140 payable from the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Fund	106,000
3835-001-0140—For support of Baldwin Hills Conservancy, payable from the California Environmental License Plate Fund	292,000
Schedule:	
(1) Baldwin Hills Conservancy	393,000
(2) Amount payable from the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Fund (Item 3835-001-6029).....	-101,000
Provisions:	
1. Acquisitions and enhancements administered pursuant to this item shall not be undertaken if they would require increased state funds for management purposes.	

Item	Amount
3835-001-6029—For support of Baldwin Hills Conservancy, for payment to Item 3835-001-0140, payable from the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Fund..	101,000
3835-301-6029—For capital outlay, Baldwin Hills Conservancy, payable from the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Fund	7,200,000
Schedule:	
(1) 20-Capital Outlay Acquisition and Improvement Program.....	7,200,000
Provisions:	
1. The funds appropriated in this item are available for expenditure for capital outlay or local assistance until June 30, 2007.	
3840-001-0140—For support of Delta Protection Commission, payable from the California Environmental License Plate Fund	138,000
3840-001-0516—For support of Delta Protection Commission, payable from the Harbors and Watercraft Revolving Fund.....	163,000
3845-001-0140—For support of San Diego River Conservancy, payable from the California Environmental License Plate Fund	265,000
Schedule:	
(1) 10-San Diego River Conservancy ..	265,000
Provisions:	
1. Acquisitions and enhancements administered pursuant to this item shall not be undertaken if they would require increased state funds for management purposes.	
3845-490—Reappropriation, San Diego River Conservancy. Notwithstanding any other provision of law, the balance of the appropriation provided in the following citation is reappropriated for the purposes provided for in that appropriation and for planning and program development and shall be available for encumbrance or expenditure until June 30, 2005:	
0140—Environmental License Plate Fund	
(1) Item 3845-001-0140, Budget Act of 2003 (Ch. 157, Stats. 2003)	
3850-001-0140—For support of Coachella Valley Mountains Conservancy, payable from the California Environmental License Plate Fund	256,000
Schedule:	
(1) 10-Coachella Valley Mountains Conservancy	407,000

Item	Amount
(2) Reimbursements	-19,000
(3) Amount payable from the Coachella Valley Mountains Conservancy Fund (Item 3850-001-0296).....	-32,000
(4) Amount payable from the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Fund (Item 3850-001-6029).....	-100,000
Provisions:	
1. Acquisitions and enhancements administered pursuant to this item shall not be undertaken if they would require increased state funds for management purposes.	
3850-001-0296—For support of Coachella Valley Mountains Conservancy, for payment to Item 3850-001-0140, payable from the Coachella Valley Mountains Conservancy Fund	32,000
3850-001-6029—For support of Coachella Valley Mountains Conservancy, payable from the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Fund	100,000
3850-301-0005—For capital outlay, Coachella Valley Mountains Conservancy, payable from the Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Fund.....	686,000
Schedule:	
(1) 20-Coachella Valley Mountains Acquisition and Enhancement Projects and Costs.....	686,000
Provisions:	
1. The funds appropriated in this item are available for expenditure for capital outlay or local assistance until June 30, 2007.	
3850-301-6029—For capital outlay, Coachella Valley Mountains Conservancy, payable from the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Fund	2,871,000
Schedule:	
(1) 20-Coachella Valley Mountains Acquisition and Enhancement Projects and Costs.....	2,871,000
Provisions:	
1. The funds appropriated in this item are available for expenditure for capital outlay or local assistance until June 30, 2007.	

Item	Amount
3860-001-0001—For support of Department of Water Resources.....	29,346,000
Schedule:	
(1) 10-Continuing Formulation of the California Water Plan.....	138,026,000
(2) 20-Implementation of the State Water Resources Development System.....	9,777,000
(3) 30-Public Safety and Prevention of Damage	36,793,000
(4) 45-California Energy Resources Scheduling (CERS).....	46,866,000
(5) 40-Services	6,990,000
(6) 50.01-Management and Administration.....	63,948,000
(7) 50.02-Distributed Management and Administration	-63,700,000
(8) Reimbursements.....	-26,546,000
(9) Amount payable from the California Environmental License Plate Fund (Item 3860-001-0140).....	-222,000
(10) Amount payable from the Central Valley Project Improvement Subaccount (Item 3860-001-0404).....	-1,573,000
(11) Amount payable from the Feasibility Projects Subaccount (Item 3860-001-0445)	-1,448,000
(12) Amount payable from the Water Conservation and Groundwater Recharge Subaccount (Item 3860-001-0446)	-123,000
(13) Amount payable from the Energy Resources Programs Account (Item 3860-001-0465)	-1,696,000
(14) Amount payable from the Local Projects Subaccount (Item 3860-001-0543)	-99,000
(15) Amount payable from the Sacramento Valley Water Management and Habitat Protection Subaccount (Item 3860-001-0544)	-384,000
(16) Amount payable from the 1986 Water Conservation and Water Quality Bond Fund (Item 3860-001-0744)	-189,000
(17) Amount payable from the Federal Trust Fund (Item 3860-001-0890).....	-11,307,000

Item	Amount
(18) Amount payable from the Dam Safety Fund (Item 3860-001-3057).....	-7,800,000
(19) Amount payable from the Electric Power Fund (Item 3860-001-3100).....	-46,377,000
(20) Amount payable from the Safe Drinking Water, Clean Water, Watershed Protection, and Flood Protection Bond Fund (Item 3860-001-6001).....	-984,000
(21) Amount payable from the Flood Protection Corridor Subaccount (Item 3860-001-6005)	-943,000
(22) Amount payable from the Urban Stream Restoration Subaccount (Item 3860-001-6007)	-692,000
(23) Amount payable from the Yuba Feather Flood Protection Subaccount (Item 3860-001-6010).....	-982,000
(23.5) Amount payable from the Arroyo Pasajero Watershed Subaccount (Item 3860-001-6011).....	-4,750,000
(24) Amount payable from the Water Conservation Account (Item 3860-001-6023).....	-779,000
(25) Amount payable from the Conjunctive Use Subaccount (Item 3860-001-6025)	-1,300,000
(26) Amount payable from the Bay-Delta Multipurpose Water Management Subaccount (Item 3860-001-6026).....	-36,301,000
(27) Amount payable from the Interim Water Supply and Water Quality Infrastructure and Management Subaccount (Item 3860-001-6027).	-431,000
(28) Amount payable from the Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002 (Item 3860-001-6031).....	-64,428,000

Provisions:

1. The amounts appropriated in Items 3860-001-0001 to 3860-001-6031, inclusive, shall be transferred to the Water Resources Revolving Fund

Item	Amount
(0691) for direct expenditure in such amounts as the Department of Finance may authorize, including cooperative work with other agencies.	
2. Of the amount appropriated in this item, \$2,600,000 shall be expended for sediment removal at the Fremont Weir and shall be available for expenditure through June 30, 2007. Notwithstanding any other provision of law, these funds may be used for acquisition of mitigation lands necessary for the project.	
3860-001-0140—For support of Department of Water Resources, for payment to Item 3860-001-0001, payable from the California Environmental License Plate Fund.....	222,000
3860-001-0404—For support of Department of Water Resources, for payment to Item 3860-001-0001, payable from the Central Valley Project Improvement Subaccount.....	1,573,000
3860-001-0445—For support of Department of Water Resources, for payment to Item 3860-001-0001, payable from the Feasibility Projects Subaccount.....	1,448,000
3860-001-0446—For support of Department of Water Resources, for payment to Item 3860-001-0001, payable from the Water Conservation and Groundwater Recharge Subaccount.....	123,000
3860-001-0465—For support of Department of Water Resources, for payment to Item 3860-001-0001, payable from the Energy Resources Programs Account	1,696,000
3860-001-0543—For support of Department of Water Resources, for payment to Item 3860-001-0001, payable from the Local Projects Subaccount.....	99,000
3860-001-0544—For support of Department of Water Resources, for payment to Item 3860-001-0001, payable from the Sacramento Valley Water Management and Habitat Protection Subaccount.....	384,000
3860-001-0744—For support of the Department of Water Resources, for payment to Item 3860-001-0001, payable from the 1986 Water Conservation and Water Quality Bond Fund.....	189,000
3860-001-0890—For support of Department of Water Resources, for payment to Item 3860-001-0001, payable from the Federal Trust Fund.....	11,307,000
3860-001-3057—For support of Department of Water Resources, for payments to Item 3860-001-0001, payable from the Dam Safety Fund.....	7,800,000

Item	Amount
3860-001-3100—For support of Department of Water Resources, for payment to Item 3860-001-0001, payable from the Electric Power Fund.....	46,377,000
Provisions:	
1. The Department of Water Resources shall notify the Chairperson and Vice Chairperson of the Joint Legislative Budget Committee prior to expending the \$1,250,000 contingency reserve included in this item.	
3860-001-6001—For support of Department of Water Resources, for payment to Item 3860-001-0001, payable from the Safe Drinking Water, Clean Water, Watershed Protection, and Flood Protection Bond Fund	984,000
3860-001-6005—For support of Department of Water Resources, for payment to Item 3860-001-0001, payable from the Flood Protection Corridor Sub-account.....	943,000
3860-001-6007—For support of Department of Water Resources, for payment to Item 3860-001-0001, payable from the Urban Stream Restoration Sub-account.....	692,000
3860-001-6010—For support of Department of Water Resources, for payment to Item 3860-001-0001, payable from the Yuba Feather Flood Protection Sub-account.....	982,000
3860-001-6011—For support of Department of Water Resources, for payment to Item 3860-001-0001, payable from the Arroyo Pasajero Watershed Sub-account.....	4,750,000
3860-001-6023—For support of Department of Water Resources, for payment to Item 3860-001-0001, payable from the Water Conservation Account.....	779,000
3860-001-6025—For support of Department of Water Resources, for payment to Item 3860-001-0001, payable from the Conjunctive Use Subaccount	1,300,000
3860-001-6026—For support of Department of Water Resources, for payment to Item 3860-001-0001, payable from the Bay-Delta Multipurpose Water Management Subaccount	36,301,000
3860-001-6027—For support of Department of Water Resources, for payment to Item 3860-001-0001, payable from the Interim Water Supply and Water Quality Infrastructure and Management Subaccount.....	431,000

Item	Amount
3860-001-6031—For support of Department of Water Resources, for payment to Item 3860-001-0001, payable from the Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002	64,428,000
3860-012-0502—For transfer by the Controller from the California Water Resources Development Bond Fund to the General Fund	(11,500,000)
3860-101-0543—For local assistance, Department of Water Resources, payable from the Local Projects Subaccount	3,289,000
3860-101-0744—For local assistance, Department of Water Resources, payable from the 1986 Water Conservation and Water Quality Bond Fund	1,600,000
3860-101-0790—For local assistance, Department of Water Resources, payable from the 1988 Water Conservation Fund	8,974,000
3860-101-6006—For local assistance, Department of Water Resources, payable from the Flood Control Subventions Account	3,742,000
3860-101-6010—For local assistance, Department of Water Resources, payable from the Yuba Feather Flood Protection Subaccount	16,855,000
3860-101-6023—For local assistance, Department of Water Resources, payable from the Water Conservation Account	26,282,000
3860-101-6025—For local assistance, Department of Water Resources, payable from the Conjunctive Use Subaccount	77,336,000
3860-101-6031—For local assistance, Department of Water Resources, payable from the Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002	42,517,000
Provisions:	
1. Of the amount appropriated in this item, \$19,000,000 shall be provided for the CALFED Watershed Program and shall be available for encumbrance until June 30, 2006, and liquidation until June 30, 2008.	
3860-301-0001—For capital outlay, Department of Water Resources	270,000
Schedule:	
(1) 30.95.309-American River Long Term Flood Protection Project	270,000

Item	Amount
3860-490—Reappropriation, Department of Water Resources. The balance of the appropriations provided in the following citations are reappropriated for the purposes and subject to the limitations, unless otherwise specified, provided for in those appropriations:	
0001—General Fund	
(1) Item 3860-301-0001, Budget Act of 2001 (Ch. 106, Stats. 2001)	
(1) 30.95.010-Sacramento Riverbank Protection Project	
(1.5) 30.95.030.201-Merced County Streams, Castle Dam Unit—Construction	
(2.5) 30.95.215.201-Lower Sacramento Area Levee Reconstruction Project	
(4.5) 30.95.295.201-Tehama Section 205 Flood Control Project—Construction	
(11) 30.95.311-Folsom Dam Modifications Project	
3860-491—Reappropriation, Department of Water Resources. The amounts specified in the appropriations provided in the following citations are reappropriated for purposes provided for in those appropriations, unless otherwise specified, and shall be available for encumbrance or expenditure until June 30, 2006:	
0544—Sacramento Valley Water Management and Habitat Protection Subaccount	
(1) The balance of Item 3860-101-0544, Budget Act of 2003 (Ch. 157, Stats. 2003)	
6077—Urban Stream Restoration Subaccount	
(1) The balance of Item 3860-101-6007, Budget Act of 2003 (Ch. 157, Stats. 2003)	
6026—Bay-Delta Multipurpose Water Management Subaccount	
(1) \$7,060,000 from Item 3860-001-6026, Budget Act of 2003 (Ch. 157, Stats. 2003) for purposes of the CALFED Conveyance and Science Programs	
6031—Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002	
(1) Item 3860-001-6031, Budget Act of 2003 (Ch. 157, Stats. 2003) for the following purposes in the amounts specified:	
(a) CALFED Storage.....	10,744,000
(b) CALFED Conveyance.....	100,000
(c) Water Supply Reliability.....	72,360,000

Item	Amount
(d) CALFED Water Use Efficiency.....	34,240,000
(e) Pilot Projects.....	11,450,000
(f) CALFED Watershed Management.....	1,000,000
(g) CALFED Ecosystem.....	140,000
(2) Item 3860-101-6031, Budget Act of 2003 (Ch. 157, Stats. 2003) for the following purposes in the amounts specified:	
(a) Drought Panel Program.....	6,400,000
(b) Desalination Program.....	25,000,000
(c) Integrated Water Management..	49,830,000
3860-492—Extension of liquidation period, Department of Water Resources. Notwithstanding any other provision of law, funds appropriated in the following citations shall be available for liquidation until June 30, 2006:	
0001—General Fund	
(1) Item 3860-001-0001, Budget Act of 2001 (Ch. 106, Stats. 2001); (\$50,000) for purposes of Northern California Water Management activities	
(2) Item 3860-301-0001, Budget Act of 1999 (Ch. 50, Stats. 1999)	
(4) 30.95.205-Sutter County Bridge Replacement	
0543—Local Projects Subaccount	
(1) Item 3860-101-0543, Budget Act of 2001 (Ch. 106, Stats. 2001)	
0544—Sacramento Valley Water Management and Habitat Protection Subaccount	
(1) Item 3860-101-0544, Budget Act of 2001 (Ch. 106, Stats. 2001)	
6003—Floodplain Mapping Subaccount	
(1) Item 3860-001-6003, Budget Act of 2000 (Ch. 52, Stats. 2000), as reappropriated by Item 3860-491, Budget Act of 2001 (Ch. 106, Stats. 2001)	
6007—Urban Stream Restoration Subaccount	
(1) Item 3860-101-6007, Budget Act of 2001 (Ch. 106, Stats. 2001)	
6010—Yuba Feather Flood Protection Subaccount	
(1) Item 3860-101-6010, Budget Act of 2001 (Ch. 106, Stats. 2001)	
6023—Water Conservation Account	
(1) Item 3860-001-6023, Budget Act of 2001 (Ch. 106, Stats. 2001)	

Item	Amount
(2) Item 3860-101-6023, Budget Act of 2001 (Ch. 106, Stats. 2001)	
6025—Conjunctive Use Subaccount	
(1) Item 3860-101-6025, Budget Act of 2001 (Ch. 106, Stats. 2001)	
6026—Bay-Delta Multipurpose Water Management Subaccount	
(1) Item 3860-001-6026, Budget Act of 2001 (Ch. 106, Stats. 2001)	
6027—Interim Water Supply and Water Quality Infrastructure and Management Subaccount	
(1) Item 3860-101-6027, Budget Act of 2001 (Ch. 106, Stats. 2001)	
3860-495—Reversion, Department of Water Resources. As of June 30, 2004, the amounts specified in the following citations shall revert to the fund balance of the fund from which the appropriation was made:	
0001—General Fund	
(1) Item 3860-301-0001, Budget Act of 2001 (Ch. 106, Stats. 2001)	
(2.5) 30.95.215.201—Lower Sacramento Area Levee Reconstruction Project	400,000
(11) 30.95.311—Folsom Dam Modifications Project	2,470,000
Provisions:	
1. It is the intent of the Legislature that the funds reverted in this item be redirected for the American River Long Term Protection Project and sediment removal at the Fremont Weir.	
3860-496—Reversion, Department of Water Resources. As of June 30, 2004, the sum of \$1,080,000 from Item 3860-101-6005, Budget Act of 2003 (Ch. 157, Stats. 2003), shall revert to the Flood Protection Corridor Subaccount.	
3870-001-0001—For support of California Bay-Delta Authority.....	8,260,000
Schedule:	
(1) 10-CALFED Bay-Delta Program ...	52,390,000
(2) Reimbursements.....	-16,510,000
(3) Amount payable from the Federal Trust Fund (Item 3860-001-0890).	-5,000,000
(4) Amount payable from the Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002 (Item 3860-001-6031)	-22,620,000

Item	Amount
3870-001-0890—For support of California Bay-Delta Authority, for payment to Item 3870-001-0001, payable from the Federal Trust Fund	5,000,000
3870-001-6031—For support of California Bay-Delta Authority, for payment to Item 3870-001-0001, payable from the Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002	22,620,000
Provisions:	
1. The funds appropriated in this item shall be available for expenditure until June 30, 2006.	
3870-490—Reappropriation, California Bay-Delta Authority. The amounts specified in the appropriations provided for in the following citations are reappropriated for the purposes provided for in those appropriations, unless otherwise specified, and shall be available for encumbrance and expenditure until June 30, 2006:	
0546—Bay-Delta Ecosystem Restoration Account	
(1) The balance of Item 3870-001-0546, Budget Act of 2003 (Ch. 157, Stats. 2003)	
6031—Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002	
(1) \$12,593,000 from Item 3870-001-6031, Budget Act of 2003 (Ch. 157, Stats. 2003) for purposes of the CALFED Science and Conveyance Programs	

CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

3900-001-0001—For support of State Air Resources Board, for payment to Item 3900-001-0044	2,224,000
3900-001-0044—For support of State Air Resources Board, payable from the Motor Vehicle Account, State Transportation Fund	60,107,000
Schedule:	
(1) 15-Mobile Source.....	114,665,000
(2) 25-Stationary Source	38,238,000
(3) 30.01-Program Direction and Support	11,092,000
(4) 30.02-Distributed Program Direction and Support	-11,092,000
(5) Reimbursements	-3,777,000
(6) Amount payable from the General Fund (Item 3900-001-0001).....	-2,224,000
(7) Amount payable from the Air Pollution Control Fund (Item 3900-001-0115)	-61,394,000

Item	Amount
(8) Amount payable from the Vehicle Inspection and Repair Fund (Item 3900-001-0421)	-11,558,000
(9) Amount payable from the Air Toxics Inventory and Assessment Account (Item 3900-001-0434).....	-991,000
(10) Amount payable from the Federal Trust Fund (Item 3900-001-0890).	-11,352,000
(11) Amount payable from the Non-Toxic Dry Cleaning Incentive Trust Fund (Item 3900-001-3070).....	-1,500,000
Provisions:	
1. Of the amount appropriated in this item, \$30,500,000 is available for the purpose of matching grants under the Carl Moyer Memorial Air Quality Standards Attainment Program.	
3900-001-0115—For support of State Air Resources Board, for payment to Item 3900-001-0044, payable from the Air Pollution Control Fund	61,394,000
3900-001-0421—For support of State Air Resources Board, for payment to Item 3900-001-0044, payable from the Vehicle Inspection and Repair Fund	11,558,000
3900-001-0434—For support of State Air Resources Board, for payment to Item 3900-001-0044, payable from the Air Toxics Inventory and Assessment Account.....	991,000
3900-001-0890—For support of State Air Resources Board, for payment to Item 3900-001-0044, payable from the Federal Trust Fund	11,352,000
3900-001-3070—For support of State Air Resources Board, for payment to Item 3900-001-0044, payable from the Non-Toxic Dry Cleaning Incentive Trust Fund	1,500,000
3900-101-0044—For local assistance, State Air Resources Board, for assistance to counties in the operation of local air pollution control districts, payable from the Motor Vehicle Account, State Transportation Fund	10,111,000
Schedule:	
(1) 35-Subvention	10,111,000
Provisions:	
1. It is the intent of the Legislature that funds appropriated in this item shall not be used to reduce the fees paid by permittees to the local air quality management and air pollution control districts.	

Item	Amount
3910-001-0005—For support of California Integrated Waste Management Board, for payment to Item 3910-001-0387, payable from the Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Fund	136,000
3910-001-0100—For support of California Integrated Waste Management Board, for payment to Item 3910-001-0387, payable from the California Used Oil Recycling Fund	4,520,000
Provisions:	
1. Notwithstanding subdivision (d) of Section 48653 of the Public Resources Code, the aggregate of appropriations from the California Used Oil Recycling Fund may exceed \$3,000,000 during the 2004–05 fiscal year.	
3910-001-0226—For support of California Integrated Waste Management Board, for payment to Item 3910-001-0387, payable from the California Tire Recycling Management Fund	28,139,000
Provisions:	
1. The amount appropriated in this item includes revenues derived from the assessment of fines and penalties imposed as specified in Section 13332.18 of the Government Code.	
2. Notwithstanding Section 42889 of the Public Resources Code, expenditures for administration of the Tire Recycling Program may exceed the limits set forth in subdivisions (a) and (b) of Section 42889 of the Public Resources Code.	
3910-001-0281—For support of California Integrated Waste Management Board, for payment to Item 3910-001-0387, payable from the Recycling Market Development Revolving Loan Account, Integrated Waste Management Fund	1,863,000
3910-001-0386—For support of California Integrated Waste Management Board, for payment to Item 3910-001-0387, payable from the Solid Waste Disposal Site Cleanup Trust Fund	419,000
Provisions:	
1. Notwithstanding Section 48020 of the Public Resources Code, expenditures for administration of the Solid Waste Cleanup Trust Fund Program may exceed the limits set forth in subdivision (c) of Section 48020 of the Public Resources Code.	

Item	Amount
3910-001-0387—For support of California Integrated Waste Management Board, payable from the Integrated Waste Management Account, Integrated Waste Management Fund.....	35,504,000
Schedule:	
(1) 11-Waste Reduction and Management.....	151,635,000
(2) 30.01-Administration.....	8,413,000
(3) 30.02-Distributed Administration ...	-8,413,000
(4) Reimbursements.....	-200,000
(5) Amount payable from the Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Fund (Item 3910-001-0005).	-136,000
(6) Amount payable from the California Used Oil Recycling Fund (Item 3910-001-0100)	-4,520,000
(7) Amount payable from the California Used Oil Recycling Fund (paragraph (4) of subdivision (a) of Section 48653 of the Public Resources Code).....	-1,440,000
(8) Amount payable from the California Used Oil Recycling Fund (paragraph (1) of subdivision (a) of Section 48653 of the Public Resources Code).....	-3,300,000
(9) Amount payable from the California Tire Recycling Management Fund (Item 3910-001-0226).....	-28,139,000
(10) Amount payable from the Recycling Market Development Revolving Loan Account, Integrated Waste Management Fund (Item 3910-001-0281)	-1,863,000
(11) Amount payable from the Solid Waste Disposal Site Cleanup Trust Fund (Item 3910-001-0386).....	-419,000
(12) Amount payable from the Integrated Waste Management Account, Integrated Waste Management Fund (Item 3910-006-0387).	-640,000
(13) Amount payable from the Farm and Ranch Solid Waste Cleanup and Abatement Account (Item 3910-001-0558)	-1,020,000

Item	Amount
(14) Amount payable from the Rigid Container Account (Item 3910-001-3024).....	-1,031,000
(15) Amount payable from the Electronic Waste Recovery and Recycling Account (Item 3910-001-3065).....	-73,423,000
Provisions:	
1. Notwithstanding subdivision (h) of Section 42023.1 of the Public Resources Code, the California Integrated Waste Management Board may offset the costs of administering the revolving loan program for Recycling Market Development Zones with funds appropriated in this item.	
2. The amount appropriated in this item includes revenues derived from the assessment of fines and penalties imposed as specified in Section 13332.18 of the Government Code.	
3910-001-0558—For support of California Integrated Waste Management Board, for payment to Item 3910-001-0387, payable from the Farm and Ranch Solid Waste Cleanup and Abatement Account.....	1,020,000
Provisions:	
1. Notwithstanding Section 48100 of the Public Resources Code, expenditures for administration of the Farm and Ranch Solid Waste Cleanup and Abatement Grant Program may exceed the limits set forth in paragraph (3)(A) of subdivision (c) of Section 48100 of the Public Resources Code.	
3910-001-3024—For support of California Integrated Waste Management Board, for payment to Item 3910-001-0387, payable from the Rigid Container Account	1,031,000
3910-001-3065—For support of California Integrated Waste Management Board, for payment to Item 3910-001-0387, payable from the Electronic Waste Recovery and Recycling Account.....	73,423,000
3910-003-0100—For transfer by the Controller, upon notification by the board, of an amount not to exceed the appropriation in this item, from the California Used Oil Recycling Fund to the Farm and Ranch Solid Waste Cleanup and Abatement Account pursuant to paragraph (2)(A) of subdivision (c) of Section 48100 of the Public Resources Code.....	(333,000)

Item	Amount
3910-003-0226—For transfer by the Controller, upon notification by the board, of an amount not to exceed the appropriation in this item, from the California Tire Recycling Management Fund to the Farm and Ranch Solid Waste Cleanup and Abatement Account pursuant to paragraph (2)(A) of subdivision (c) of Section 48100 of the Public Resources Code.....	(333,000)
3910-003-0387—For transfer by the Controller from the Integrated Waste Management Account, Integrated Waste Management Fund, to the Recycling Market Development Revolving Loan Account as a loan pursuant to subdivision (a) of Section 42023.2 of the Public Resources Code	(5,000,000)
3910-004-0387—For transfer by the Controller from the Integrated Waste Management Account, Integrated Waste Management Fund, to the Solid Waste Disposal Site Cleanup Trust Fund pursuant to paragraph (1) of subdivision (c) of Section 48027 of the Public Resources Code.....	(5,000,000)
3910-005-0387—For transfer by the Controller, upon notification by the board, of an amount not to exceed the appropriation in this item, from the Integrated Waste Management Account, Integrated Waste Management Fund, to the Farm and Ranch Solid Waste Cleanup and Abatement Account pursuant to paragraph (2)(A) of subdivision (c) of Section 48100 of the Public Resources Code.....	(334,000)
3910-006-0387—For support of California Integrated Waste Management Board, for payment to Item 3910-001-0387, payable from the Integrated Waste Management Account, Integrated Waste Management Fund.....	640,000
3910-101-0226—For local assistance, California Integrated Waste Management Board, payable from the California Tire Recycling Management Fund.....	4,000,000
Provisions:	
1. The amount appropriated in this item includes revenues derived from the assessment of fines and penalties imposed as specified in Section 13332.18 of the Government Code.	
3910-101-0387—For local assistance, California Integrated Waste Management Board, payable from the Integrated Waste Management Account, Integrated Waste Management Fund.....	5,904,000
3930-001-0106—For support of Department of Pesticide Regulation.....	39,083,000

Item	Amount
Schedule:	
(1) 12-Registration and Health Evaluation.....	16,438,000
(2) 17-Pest Management, Environmental Monitoring, Enforcement, and Licensing.....	26,051,000
(3) 20.10-Executive and Administrative Services.....	7,857,000
(4) 20.20-Distributed Executive and Administrative Services.....	-7,857,000
(5) Reimbursements.....	-479,000
(6) Amount payable from the California Environmental License Plate Fund (Item 3930-001-0140).....	-454,000
(7) Amount payable from the Food Safety Account (Item 3930-001-0224).....	-306,000
(8) Amount payable from the Federal Trust Fund (Item 3930-001-0890).	-2,167,000
Provisions:	
1. The amount appropriated in this item includes revenues derived from the assessment of fines and penalties imposed as specified in Section 13332.18 of the Government Code.	
3930-001-0140—For support of Department of Pesticide Regulation, for payment to Item 3930-001-0106, payable from the California Environmental License Plate Fund.....	454,000
3930-001-0224—For support of Department of Pesticide Regulation, for payment to Item 3930-001-0106, payable from the Food Safety Account.....	306,000
Provisions:	
1. The amount appropriated in this item includes revenues derived from the assessment of fines and penalties imposed as specified in Section 13332.18 of the Government Code.	
3930-001-0890—For support of Department of Pesticide Regulation, for payment to Item 3930-001-0106, payable from the Federal Trust Fund.....	2,167,000
3930-003-0106—For transfer by the Controller from the Department of Pesticide Regulation Fund to the Food Safety Account pursuant to Section 12846.5 of the Food and Agricultural Code	(176,000)

Item	Amount
3930-295-0001—For local assistance, Department of Pesticide Regulation, for reimbursement, in accordance with the provisions of Section 6 of Article XIII B of the California Constitution or Section 17561 of the Government Code, of the costs of any new program or increased level of service of an existing program mandated by statute or executive order, for disbursement by the State Controller	1,000
Schedule:	
(1) 98.01.120.089-Pesticide Use Reports (Ch. 1200, Stats. 89)	1,000
Provisions:	
1. Except as provided in Provision 2, allocations of funds provided in this item to the appropriate local entities shall be made by the State Controller in accordance with the provisions of each statute or executive order that mandates the reimbursement of the costs, and shall be audited to verify the actual amount of the mandated costs in accordance with subdivision (d) of Section 17561 of the Government Code. Audit adjustments to prior year claims may be paid from this item. Funds appropriated in this item may be used to provide reimbursement pursuant to Article 5 (commencing with Section 17615) of Chapter 4 of Part 7 of Division 4 of Title 2 of the Government Code.	
2. If any of the scheduled amounts are insufficient to provide full reimbursement of costs, the State Controller may, upon notifying the Director of Finance in writing, augment those deficient amounts from the unencumbered balance of any other scheduled amounts therein. No order may be issued pursuant to this provision unless written notification of the necessity therefor is provided to the chairperson of the committee in each house which considers appropriations and the Chairperson of the Joint Legislative Budget Committee or his or her designee.	
3940-001-0001—For support of State Water Resources Control Board.....	27,358,000
Schedule:	
(1) 10-Water Quality.....	387,080,000
(2) 20-Water Rights	10,362,000
(3) 30.01-Administration.....	13,512,000
(4) 30.02-Distributed Administration ...	-13,512,000
(5) Reimbursements.....	-9,772,000

Item	Amount
(6) Amount payable from the Unified Program Account (Item 3940-001-0028).....	-491,000
(7) Amount payable from the Waste Discharge Permit Fund (Item 3940-001-0193)	-55,913,000
(8) Amount payable from the Marine Invasive Species Control Fund (Item 3940-001-0212)	-74,000
(9) Amount payable from the Public Resources Account, Cigarette and Tobacco Products Surtax Fund (Item 3940-001-0235)	-2,104,000
(10) Amount payable from the Integrated Waste Management Account, Integrated Waste Management Fund (Item 3940-001-0387) ..	-5,284,000
(11) Amount payable from the State Revolving Fund Loan Subaccount (Item 3940-001-0417)	-511,000
(12) Amount payable from the Small Communities Grant Subaccount (Item 3940-001-0418)	-739,000
(13) Amount payable from the Water Recycling Subaccount (Item 3940-001-0419).....	-150,000
(14) Amount payable from the Drainage Management Subaccount (Item 3940-001-0422)	-511,000
(16) Amount payable from the Seawater Intrusion Control Subaccount (Item 3940-001-0424)	-38,000
(17) Amount payable from the Underground Storage Tank Tester Account (Item 3940-001-0436).....	-61,000
(18) Amount payable from the Underground Storage Tank Cleanup Fund (Item 3940-001-0439)....	-243,084,000
(19) Amount payable from the Underground Storage Tank Fund (Item 3940-001-0475)	-400,000
(20) Amount payable from the Surface Impoundment Assessment Account (Item 3940-001-0482)	-180,000
(21) Amount payable from the 1984 State Clean Water Bond Fund (Item 3940-001-0740)	-312,000

Item	Amount
(22) Amount payable from the Federal Trust Fund (Item 3940-001-0890).....	-32,619,000
(23) Amount payable from the Water Rights Fund (Item 3940-001-3058).....	-9,264,000
(24) Amount payable from the Watershed Protection Subaccount (Item 3940-001-6013)	-1,035,000
(25) Amount payable from the Santa Ana River Watershed Subaccount (Item 3940-001-6016)	-1,027,000
(26) Amount payable from the Lake Elsinore and San Jacinto Watershed Subaccount (Item 3940-001-6017).....	-43,000
(27) Amount payable from the Nonpoint Source Pollution Control Subaccount (Item 3940-001-6019).	-1,201,000
(28) Amount payable from the State Revolving Fund Loan Subaccount (Item 3940-001-6020)	-81,000
(29) Amount payable from the Wastewater Construction Grant Subaccount (Item 3940-001-6021).....	-22,000
(30) Amount payable from the Coastal Nonpoint Source Control Subaccount (Item 3940-001-6022).....	-1,051,000
(31) Amount payable from the Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002 (Item 3940-001-6031)	-4,117,000

Provisions:

1. Notwithstanding any other provision of law, upon approval and order of the Director of Finance, the State Water Resources Control Board may borrow sufficient funds for cash purposes from special funds that otherwise provide support for the board. Any such loans are to be repaid with interest at the rate earned in the Pooled Money Investment Account.

3940-001-0028—For support of State Water Resources Control Board, for payment to Item 3940-001-0001, payable from the Unified Program Account..... 491,000

Provisions:

1. It is intended that the total funding provided in this item and Item 3940-001-0475 be maintained

Item	Amount
in 2004–05 for the state underground storage tank regulatory activities. In the event that revenues for the Unified Program Account are insufficient to support the appropriation in this item because of delays in shifting programmatic responsibilities to certified unified program agencies, this item may be reduced and a corresponding increase of an equal or lesser amount may be made to Item 3940-001-0475, upon approval of the Department of Finance.	
3940-001-0193—For support of State Water Resources Control Board, for payment to Item 3940-001-0001, payable from the Waste Discharge Permit Fund.....	55,913,000
3940-001-0212—For support of State Water Resources Control Board, for payment to Item 3940-001-0001 payable from the Marine Invasive Species Control Fund	74,000
3940-001-0235—For support of State Water Resources Control Board, for payment to Item 3940-001-0001, payable from the Public Resources Account, Cigarette and Tobacco Products Surtax Fund.....	2,104,000
3940-001-0387—For support of State Water Resources Control Board, for payment to Item 3940-001-0001, payable from the Integrated Waste Management Account, Integrated Waste Management Fund.....	5,284,000
3940-001-0417—For support of State Water Resources Control Board, for payment to Item 3940-001-0001, payable from the State Revolving Fund Loan Sub-account.....	511,000
3940-001-0418—For support of State Water Resources Control Board, for payment to Item 3940-001-0001, payable from the Small Communities Grant Sub-account.....	739,000
3940-001-0419—For support of State Water Resources Control Board, for payment to Item 3940-001-0001, payable from the Water Recycling Subaccount	150,000
3940-001-0422—For support of State Water Resources Control Board, for payment to Item 3940-001-0001, payable from the Drainage Management Sub-account.....	511,000
3940-001-0424—For support of State Water Resources Control Board, for payment to Item 3940-001-0001, payable from the Seawater Intrusion Control Sub-account.....	38,000

Item	Amount
3940-001-0436—For support of State Water Resources Control Board, for payment to Item 3940-001-0001, payable from the Underground Storage Tank Tester Account	61,000
3940-001-0439—For support of State Water Resources Control Board, for payment to Item 3940-001-0001, payable from the Underground Storage Tank Cleanup Fund.....	243,084,000
Provisions:	
1. The amount appropriated in this item includes revenues derived from the assessment of fines and penalties imposed as specified in Section 13332.18 of the Government Code.	
3940-001-0475—For support of State Water Resources Control Board, for payment to Item 3940-001-0001, payable from the Underground Storage Tank Fund	400,000
Provisions:	
1. Pursuant to subdivision (b) of Section 25287 of the Health and Safety Code, the surcharge to be included in the fee paid to a local agency by each person who submits an application for a permit to operate an underground storage tank shall be \$56 per tank, during the 2004–05 fiscal year. This surcharge shall be transmitted to the State Water Resources Control Board and deposited in the Underground Storage Tank Fund.	
3940-001-0482—For support of State Water Resources Control Board, for payment to Item 3940-001-0001, payable from the Surface Impoundment Assessment Account Fund.....	180,000
3940-001-0740—For support of State Water Resources Control Board, for payment to Item 3940-001-0001, payable from the 1984 State Clean Water Bond Fund	312,000
3940-001-0890—For support of State Water Resources Control Board, for payment to Item 3940-001-0001, payable from the Federal Trust Fund.....	32,619,000
3940-001-3058—For support of State Water Resources Control Board, for payment to Item 3940-001-0001, payable from the Water Rights Fund	9,264,000
3940-001-6013—For support of State Water Resources Control Board, for payment to Item 3940-001-0001, payable from the Watershed Protection Sub-account.....	1,035,000

Item	Amount
3940-001-6016—For support of State Water Resources Control Board, for payment to Item 3940-001-0001, payable from the Santa Ana River Watershed Subaccount.....	1,027,000
3940-001-6017—For support of State Water Resources Control Board, for payment to Item 3940-001-0001, payable from the Lake Elsinore and San Jacinto Watershed Subaccount.....	43,000
3940-001-6019—For support of State Water Resources Control Board, for payment to Item 3940-001-0001, payable from the Nonpoint Source Pollution Control Subaccount.....	1,201,000
3940-001-6020—For support of State Water Resources Control Board, for payment to Item 3940-001-0001, payable from the State Revolving Fund Loan Subaccount.....	81,000
3940-001-6021—For support of State Water Resources Control Board, for payment to Item 3940-001-0001, payable from the Wastewater Construction Subaccount.....	22,000
3940-001-6022—For support of State Water Resources Control Board, for payment to Item 3940-001-0001, payable from the Nonpoint Source Control Subaccount.....	1,051,000
3940-001-6031—For support of State Water Resources Control Board, for payment to Item 3940-001-0001, payable from the Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002.	4,117,000
3940-101-0001—For local assistance, State Water Resources Control Board	0
Schedule:	
(1) 10-Water Quality.....	62,100,000
(2) Amount payable from the Water Recycling Subaccount (Item 3940-101-0419).....	-21,689,000
(3) Amount payable from the Watershed Protection Subaccount (Item 3940-101-6013)	-1,423,000
(4) Amount payable from the Nonpoint Source Pollution Control Subaccount (Item 3940-101-6019)	-1,047,000
(5) Amount payable from the Coastal Nonpoint Source Control Subaccount (Item 3940-101-6022).....	-2,941,000

Item	Amount
(6) Amount payable from the Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002 (Item 3940-101-6031)-35,000,000	
3940-101-0419—For local assistance, State Water Resources Control Board, for payment to Item 3940-101-0001, payable from the Water Recycling Subaccount, to be available for expenditure until June 30, 2007	21,689,000
3940-101-6013—For local assistance, State Water Resources Control Board, for payment to Item 3940-101-0001, payable from the Watershed Protection Subaccount, to be available for expenditure until June 30, 2007	1,423,000
3940-101-6019—For local assistance, State Water Resources Control Board, for payment to Item 3940-101-0001, payable from the Nonpoint Source Pollution Control Subaccount to be available for expenditure until June 30, 2007	1,047,000
3940-101-6022—For local assistance, State Water Resources Control Board, for payment to Item 3940-101-0001, payable from the Coastal Nonpoint Source Control Subaccount to be available for expenditure until June 30, 2007	2,941,000
3940-101-6031—For local assistance, State Water Resources Control Board, for payment to Item 3940-101-0001, payable from the Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002	35,000,000
Provisions:	
1. Notwithstanding any other provision of law, the amount appropriated in this item shall be available for expenditure until June 30, 2007, and may be used to provide grants to local, state, federal, and private entities for projects.	
2. Grants made pursuant the Water Recycling Grant Program, funded in this item, and Item 3940-101-6031 of the Budget Act of 2003 (Ch. 157, Stats. 2003), shall, upon award of a grant by the State Water Resources Control Board, be available for reimbursement of eligible costs incurred after January 1, 2004.	
3940-490—Reappropriation, State Water Resources Control Board. Notwithstanding any other provision of law, the period to liquidate encumbrances of the following citation is extended to June 30, 2005:	
0001—General Fund	

Item	Amount
(1) Item 3940-001-0001, Budget Act of 2001 (Ch. 106, Stats. 2001)	
(1) 10-Water Quality	
3940-491—Reappropriation, State Water Resources Control Board. The amount specified in the appropriation provided in the following citation is reappropriated for the purpose of making agricultural water quality grants and shall be available for encumbrance or expenditure until June 30, 2005:	
6031—Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002	
(1) \$9,500,000 in Item 3940-101-6031, Budget Act of 2003 (Ch. 157, Stats. 2003)	
3960-001-0001—For support of Department of Toxic Substances Control, for payment to Item 3960-001-0014.....	17,150,000
Provisions:	
1. The Director of the Department of Toxic Substances Control may expend from this item: (a) \$8,989,000 for the following activities at the Stringfellow Federal Superfund site: (1) operation and maintenance of pretreatment plants to treat contaminated groundwater extracted from the site, (2) site maintenance and groundwater monitoring, and (3) implementation of work to stabilize the site, and (b) \$6,618,000 for the operation of the Illegal Drug Laboratory Removal Program.	
2. Notwithstanding Section 2.00 of this act, the funds appropriated for removal and remedial action at the Stringfellow Federal Superfund site shall be available for encumbrance for three fiscal years subsequent to the fiscal year in which the funds are appropriated, and disbursements in liquidation of encumbrances shall be pursuant to Section 16304.1 of the Government Code.	
3. Of the amount appropriated in this item, \$750,000 shall be used for the purposes of emergency response activity pursuant to Section 25354 of the Health and Safety Code, in lieu of the appropriation made pursuant to that section.	
3960-001-0014—For support of Department of Toxic Substances Control, payable from the Hazardous Waste Control Account	45,392,000
Schedule:	
(1) 12-Site Mitigation and Brownfields Reuse	69,659,000
(2) 13-Hazardous Waste Management..	58,348,000

Item	Amount
(3) 19.01-Administration.....	32,829,000
(4) 19.02-Distributed Administration ...	-32,829,000
(5) 20-Science, Pollution Prevention and Technology.....	11,822,000
(6) Reimbursements.....	-8,501,000
(7) Amount payable from General Fund (Item 3960-001-0001)	-17,150,000
(8) Amount payable from Unified Pro- gram Account (Item 3960-001- 0028).....	-1,006,000
(9) Amount payable from Illegal Drug Lab Cleanup Account (Item 3960- 001-0065).....	-2,071,000
(10) Amount payable from California Used Oil Recycling Fund (Item 3960-001-0100)	-343,000
(11) Amount payable from Toxic Sub- stances Control Account (Item 3960-001-0557)	-42,740,000
(12) Amount payable from Federal Trust Fund (Item 3960-001-0890).	-21,516,000
(13) Amount payable from Environ- mental Quality Assessment Fund (Item 3960-001-3035)	-553,000
(14) Amount payable from Electronic Waste Recovery and Recycling Ac- count (Item 3960-001-3065).....	-557,000

Provisions:

1. Notwithstanding any other provision of law, upon approval and order of the Director of Finance, the Department of Toxic Substances Control may borrow sufficient funds from special funds that otherwise provide support for the department for cash purposes. Any such loans are to be repaid with interest at the rate earned by the Pooled Money Investment Account.
2. Notwithstanding any other provision of law, upon request of the Director of the Department of Toxic Substances Control, and approval of the Department of Finance, the Controller shall increase the appropriation in this item in an amount necessary to pay the Board of Equalization any additional costs the board may incur to make refunds required by Chapter 737 of the Statutes of 1998, provided sufficient funds are available for such purposes and the board provides workload information that justifies the increase.

Item	Amount
3960-001-0018—For support of Department of Toxic Substances Control, payable from the Site Remediation Account.....	8,258,000
Schedule:	
(1) 12-Site Mitigation and Brownfields	
Reuse	8,258,000
Provisions:	
1. The amount appropriated in this item includes revenues derived from the assessment of fines and penalties imposed as specified in Section 13332.18 of the Government Code.	
2. The Director of the Department of Toxic Substances Control shall report, in writing, not later than 90 days after the end of the fiscal year to the Chairperson of the Joint Legislative Budget Committee, the chairpersons of the legislative fiscal committees that act on the department’s budget, the Chairperson of the Environmental Safety and Toxic Materials Committee of the Assembly, and the Chairperson of the Environmental Quality Committee of the Senate, actions taken under this provision.	
3. Notwithstanding Section 2.00 of the Budget Act, this appropriation shall be available in accordance with the provisions of Section 25330.2 of the Health and Safety Code.	
3960-001-0028—For support of Department of Toxic Substances Control, for payment to Item 3960-001-0014, payable from the Unified Program Account ..	1,006,000
3960-001-0065—For support of Department of Toxic Substances Control, for payment to Item 3960-001-0014, payable from the Illegal Drug Lab Cleanup Account	2,071,000
3960-001-0100—For support of Department of Toxic Substances Control, for payment to Item 3960-001-0014, payable from the California Used Oil Recycling Fund.....	343,000
3960-001-0456—For support of Department of Toxic Substances Control, payable from the Expedited Site Remediation Trust Fund.....	2,920,000
Schedule:	
(1) 12-Site Mitigation and Brownfields	
Reuse	2,920,000
Provisions:	
1. Notwithstanding any other provision of law, upon request of the Department of Toxic Substances Control, and approval by the Department of Fi-	

Item	Amount
<p>nance, the Controller shall augment the appropriation in this item to pay costs associated with orphan shares at sites selected for the Expedited Site Remediation Pilot Program from any uncommitted funds in the Expedited Site Remediation Trust Fund.</p> <p>2. The amount appropriated in this item includes revenues derived from the assessment of fines and penalties imposed as specified in Section 13332.18 of the Government Code.</p>	
<p>3960-001-0557—For support of Department of Toxic Substances Control, for payment to Item 3960-001-0014, payable from the Toxic Substances Control Account</p>	42,740,000
<p>Provisions:</p> <p>1. The amount appropriated in this item includes revenues derived from the assessment of fines and penalties imposed as specified in Section 13332.18 of the Government Code.</p> <p>2. The amount appropriated in this item includes state oversight costs at military installations. The expenditure of these funds shall not relieve the federal government of the responsibility to pay for all state oversight costs. The department shall take all steps necessary to recover these costs from the federal government, including, but not limited to, filing civil actions authorized by state and federal law.</p>	
<p>3960-001-0890—For support of Department of Toxic Substances Control, for payment to Item 3960-001-0014, payable from the Federal Trust Fund</p>	21,516,000
<p>3960-001-3035—For support of Department of Toxic Substances Control, for payment to Item 3960-001-0014, payable from the Environmental Quality Assessment Fund</p>	553,000
<p>Provisions:</p> <p>1. Notwithstanding any other provision of law, upon approval and order of the Director of Finance, the Department of Toxic Substances Control may borrow for cash purposes sufficient funds from special funds that otherwise provide support for the department. Any such loans are to be repaid with interest at the rate earned by the Pooled Money Investment Account.</p>	

Item	Amount
3960-001-3065—For support of Department of Toxic Substances Control, for payment to Item 3960-001-0014, payable from the Electronic Waste Recovery and Recycling Account	557,000
3960-011-0294—For transfer by the Controller from the subaccount for removal and remedial action in the Hazardous Substance Account to the Toxic Substances Control Account	(250,000)
Provisions:	
1. Notwithstanding any other provision of law, upon request of the Department of Toxic Substances Control, the Controller shall transfer those funds deposited in the subaccount for removal and remedial action in the Hazardous Substance Account to the Toxic Substances Control Account in an amount sufficient to fund the department’s costs of providing oversight to sites with deposits in the subaccount for removal and remedial action. The amount of funds transferred for the oversight of a given site shall not exceed the amount deposited in the subaccount for removal and remedial action pursuant to the settlement for that specific site.	
3960-011-0557—For transfer by the Controller from the Toxic Substances Control Account to the Expedited Site Remediation Trust Fund.....	(471,000)
Provisions:	
1. Notwithstanding any other provision of law, upon request of the Department of Toxic Substances Control, the Controller shall transfer funds from the Toxic Substances Control Account to the Expedited Site Remediation Trust Fund, pursuant to Chapter 6.85 (commencing with Section 25396) of Division 20 of the Health and Safety Code. The amount of the funds transferred shall not exceed the proceeds of fines and penalties deposited in the Toxic Substances Control Account in the 2004–05 fiscal year, exclusive of the fines and penalties transferred to the Hazardous Substance Account pursuant to Section 25192 of the Health and Safety Code for expenditure in accordance with Section 25385.9 of the Health and Safety Code.	
2. The amount specified in this item is an estimate of the funds available from the proceeds of fines and	

Item	Amount
penalties described in Provision 1, and does not represent a limit on the funds that may be transferred.	
3. The amount appropriated in this item includes revenues derived from the assessment of fines and penalties imposed as specified in Section 13332.18 of the Government Code.	
3960-011-1003—For transfer by the Controller from the Cleanup Loans and Environmental Assistance to Neighborhoods Account to the Toxic Substances Control Account	(424,000)
Provisions:	
1. Notwithstanding any other provision of law, upon request of the Department of Toxic Substances Control, the Controller shall transfer up to \$424,000 to the Toxic Substances Control Account based on actual costs incurred by the department for its oversight of Cleanup Loans and Environmental Assistance to Neighborhoods loan projects, provided that sufficient funds are available for those purposes.	
3960-012-0557—For transfer by the Controller from the Toxic Substances Control Account to the Site Remediation Account	(7,927,000)
3960-013-0557—For transfer by the Controller from the Toxic Substances Control Account to the Hazardous Substance Account.....	(3,000,000)
Provisions:	
1. Upon request of the Department of Toxic Substances Control, the Controller shall transfer up to \$3,000,000 to the Hazardous Substance Account, pursuant to this item.	
3960-014-0557—For transfer, upon order of the Director of Finance, from the Toxic Substances Control Account to the General Fund	(970,000)
Provisions:	
1. Notwithstanding Health and Safety Code Section 25353, the transfer made by this item is a loan to the General Fund for the state’s liability at the ASARCO, also known as the Selby site. This loan shall be fully repaid by June 30, 2010, with interest calculated at the rate earned by the Pooled Money Investment Account at the time of the transfer.	
3980-001-0001—For support of Office of Environmental Health Hazard Assessment	7,416,000

Item	Amount
Schedule:	
(1) 10-Health Risk Assessment.....	13,883,000
(2) Reimbursements	-1,560,000
(2.5) Amount payable from the Motor Vehicle Account, State Transportation Fund (Item 3980-001-0044)...	-2,123,000
(3) Amount payable from the California Used Oil Recycling Fund (Item 3980-001-0100)	-487,000
(4) Amount payable from the Department of Pesticide Regulation Fund (Item 3980-001-0106)	-766,000
(5) Amount payable from the California Environmental License Plate Fund (Item 3980-001-0140).....	-787,000
(6) Amount payable from the Integrated Waste Management Account (Item 3980-001-0387).....	-297,000
(7) Amount payable from the Underground Storage Tank Cleanup Fund (Item 3980-001-0439).....	-110,000
(8) Amount payable from the Safe Drinking Water and Toxic Enforcement Fund (Item 3980-001-3056) .	-337,000
3980-001-0044—For support of Office of Environmental Health Hazard Assessment, for payment to Item 3980-001-0001, payable from the Motor Vehicle Account, State Transportation Fund.....	2,123,000
3980-001-0100—For support of Office of Environmental Health Hazard Assessment, for payment to Item 3980-001-0001, payable from the California Used Oil Recycling Fund	487,000
3980-001-0106—For support of Office of Environmental Health Hazard Assessment, for payment to Item 3980-001-0001, payable from the Department of Pesticide Regulation Fund.....	766,000
3980-001-0140—For support of Office of Environmental Health Hazard Assessment, for payment to Item 3980-001-0001, payable from the California Environmental License Plate Fund	787,000
3980-001-0387—For support of Office of Environmental Health Hazard Assessment, for payment to Item 3980-001-0001, payable from the Integrated Waste Management Account, Integrated Waste Management Fund.....	297,000

Item	Amount
3980-001-0439—For support of Office of Environmental Health Hazard Assessment, for payment to Item 3980-001-0001, payable from the Underground Storage Tank Cleanup Fund	110,000
3980-001-3056—For support of Office of Environmental Health Hazard Assessment, for payment to Item 3980-001-0001, payable from the Safe Drinking Water and Toxic Enforcement Fund	337,000

HEALTH AND HUMAN SERVICES

4100-001-0890—For support of the State Council on Developmental Disabilities, payable from the Federal Trust Fund.....	6,725,000
Schedule:	
(1) 10-State Council Planning and Administration.....	1,380,000
(2) 20-Community Program Development	1,987,000
(3) 40-Regional Offices and Local Area Boards	9,084,000
(4) Reimbursements	-5,726,000
4100-490—Reappropriation, State Council on Developmental Disabilities. Notwithstanding any other provision of law, the balance of the amount appropriated for the State Council on Developmental Disabilities, payable from the Federal Trust Fund, in Item 4100-001-0890 of the Budget Act of 2003 (Ch. 157, Stats. 2003) is reappropriated for transfer to and in augmentation of Item 4100-001-0890 of this Budget Act for the following purposes:	
(a) To augment the allocation to the Program Development Fund.	
(b) To fund the cost of salary and benefit increases approved by the Legislature that exceed the Budget Act appropriation.	
(c) To fund the implementation of any portion of the state plan as approved by the council.	
4120-001-0001—For support of Emergency Medical Services Authority	957,000
Schedule:	
(1) 10-Emergency Medical Services Authority	5,685,000
(2) Reimbursements	-1,713,000

Item	Amount
(3) Amount payable from the Emergency Medical Services Training Program Approval Fund (Item 4120-001-0194)	-270,000
(4) Amount payable from the Emergency Medical Services Personnel Fund (Item 4120-001-0312).....	-1,148,000
(5) Amount payable from the Federal Trust Fund (Item 4120-001-0890).	-1,597,000
4120-001-0194—For support of Emergency Medical Services Authority, for payment to Item 4120-001-0001, payable from the Emergency Medical Services Training Program Approval Fund	270,000
4120-001-0312—For support of Emergency Medical Services Authority, for payment to Item 4120-001-0001, payable for the Emergency Medical Services Personnel Fund.....	1,148,000
4120-001-0890—For support of Emergency Medical Services Authority, for payment to Item 4120-001-0001, payable from the Federal Trust Fund	1,597,000
4120-101-0001—For local assistance, Emergency Medical Services Authority, grants to local agencies.....	9,786,000
Schedule:	
(1) 10-Emergency Medical Services Authority	16,990,000
(2) Reimbursements	-5,200,000
(3) Amount payable from the Federal Trust Fund (Item 4120-101-0890).	-2,004,000
Provisions:	
1. The General Fund support for poison control centers shall augment, but not replace, local expenditures for existing poison control center services. These funds shall be used primarily to increase services to underserved counties and populations and for poison prevention and information services. The Director of the Emergency Medical Services Authority may contract with eligible poison control centers for the distribution of these funds.	
2. The Emergency Medical Services Authority shall use the following guidelines in administering state-funded grants to local agencies: (a) funding eligibility shall be limited to rural multicounty regions that demonstrate a heavy use of the emergency medical services system by nonresidents, (b) local agencies shall provide matching funds of	

Item		Amount
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at least \$1 for each dollar of state funds received, (c) state funding shall be used to provide only essential minimum services necessary to operate the system, as defined by the authority, (d) no region shall receive both federal and state funds in the same fiscal year for the same purpose, and (e) the Emergency Medical Services Authority shall monitor the use of the funds by recipients to assure that these funds are used in an appropriate manner.

3. Each region shall be eligible to receive up to one-half of the total cost of a minimal system for that region, as defined by the Emergency Medical Services Authority. However, the authority may reallocate unclaimed funds among regions.
4. Notwithstanding Provision 2(b), each region with a population of 300,000 or less as of June 30, 2002, shall receive the full amount for which it is eligible if it provides a cash match of \$0.41 per capita or more. Failure to provide local cash contributions at the specified level shall result in a proportional reduction in state funding.

4120-101-0890—For local assistance, Emergency Medical Services Authority, Program 10, for payment to Item 4120-101-0001, payable from the Federal Trust Fund		2,004,000
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4130-001-0632—For support of California Health and Human Services Agency Data Center, payable from the California Health and Human Services Agency Data Center Revolving Fund.....		324,750,000
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Schedule:

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|---|--|-------------|
| (1) 25-Operations..... | | 120,874,000 |
| (2) 30-Systems Management Services..... | | 203,876,000 |

Provisions:

1. Notwithstanding any other provision of law, the Director of Finance may authorize expenditures for unanticipated workload resulting from services provided to client departments or as appropriated in a client department's budget for the California Health and Human Services Agency Data Center in excess of the amount appropriated no sooner than 30 days after providing notification in writing to the chairperson of the fiscal committee of each house of the Legislature and the Chairperson of the Joint Legislative Budget

Item	Amount
<p>Committee, or no sooner than such lesser time as the chairperson of the committee, or his or her designee, may in each instance determine.</p> <ol style="list-style-type: none"> 2. Funds appropriated in this item are in lieu of the amounts that otherwise would have been appropriated pursuant to Section 11797 of the Government Code. 3. Notwithstanding any other provision of law, the California Health and Human Services Agency Data Center shall submit a Feasibility Study Report or equivalent federal planning document to the Department of Finance for review and approval prior to award of the systems implementation contract for each welfare automation consortium. 4. Expenditure authority provided in this item to support data center infrastructure projects may only be utilized for items outside the approved scope of those projects if these changes are supported by documentation prepared and processed in accordance with the state's established administrative and legislative reporting requirements. Changes in project scope must receive approval using the established administrative and legislative reporting requirements. 5. Notwithstanding any other provision of law, upon request by the Health and Human Services Agency Data Center (HHSDC), the Director of Finance may augment the amount available for expenditure in this item to pay costs associated with the planning and procurement of the migration of the hosting function of the Child Welfare Services/Case Management System (CWS/CMS) to the HHSDC, upon approval by the federal government of the State's "Go-Forward" plan for the CWS/CMS project. The augmentation may be effected not sooner than 30 days after notification in writing of the necessity therefor to the chairperson of the committee in each house of the Legislature that considers appropriations and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the chairperson of the committee, or his or her designee, may in each instance determine. The increased expenditures authority granted pursuant to this provision shall be consistent with the amount approved by 	

Item

Amount

the Director of Finance based on his or her review of the special project report or equivalent document.

6. On or before September 1, 2004, the Health and Human Services Agency Data Center shall submit to the Department of Finance and the Legislative Analyst's Office a report detailing the cost factors reflected in the 2004–05 rates. This report shall include: (a) a statement of the department's expenditures and revenues, by function, (b) information detailing the incremental changes to rates between fiscal years, including the reason for, and aggregate amount of, the change, and (c) for each client department, the actual amounts charged in the 2002–03 and 2003–04 fiscal years, and proposed in the 2004–05 fiscal year. The Department of Finance shall use this report to review the current methodologies used to set rates and shall provide a report of its findings as part of the Governor's Budget for the 2005–06 fiscal year.

4130-490—Reappropriation, California Health and Human Services Agency Data Center. Notwithstanding any other provision of law, the balance of the funds for the appropriations provided in the following citations is reappropriated for expenditure pursuant to Provision 1 and is available for encumbrance or expenditure until June 30, 2005:

0632—Revolving Fund

Item 4130-001-0632, Budget Act of 2003 (Ch. 157, Stats. 2003)

Provisions:

1. It is the intent of this item to continue funding approved activities for the automation projects that, due to schedule changes, result in unexpended appropriations for one year and the need for additional funding in the following year. Therefore, notwithstanding any other provision of law, the balance of the appropriations for these automation projects may, upon approval of the Department of Finance, be reappropriated for transfer to and in augmentation of the corresponding items in this act. The funds reappropriated by this provision shall be made available consistent with the amount approved by the Department of Finance based on an approved special project report or equivalent document not sooner than 30 days after

Item	Amount
providing notification in writing to the chairperson of the fiscal committee of each house of the Legislature and the Chairperson of the Joint Legislative Budget Committee.	
4140-001-0001—For support of Office of Statewide Health Planning and Development	0
Schedule:	
(1) 10-Health Care Quality and Analysis	5,967,000
(2) 30-Health Care Workforce	6,422,000
(3) 42-Facilities Development	27,638,000
(4) 45-Cal-Mortgage Loan Insurance... ..	4,311,000
(5) 60-Health Care Information	8,651,000
(6) 80.01-Administration	10,087,000
(7) 80.02-Distributed Administration	-9,862,000
(8) Reimbursements	-1,283,000
(9) Amount payable from the Hospital Building Fund (Item 4140-001-0121)	-27,196,000
(10) Amount payable from the California Health Data and Planning Fund (Item 4140-001-0143)	-16,313,000
(11) Amount payable from the Registered Nurse Education Fund (Item 4140-001-0181)	-1,897,000
(12) Amount payable from the Federal Trust Fund (Item 4140-001-0890). ..	-285,000
(13) Amount payable from the Mental Health Practitioner Education Fund (Item 4140-001-3064)	-206,000
(14) Amount payable from the Vocational Nurse Education Fund (Item 4140-001-3068)	-131,000
(15) Amount payable from the Health Facilities Construction Loan Insurance Fund (Section 129200, Health and Safety Code)	-4,311,000
(16) Amount payable from the Health Professions Education Fund (Section 128355, Health and Safety Code)	-1,592,000
4140-001-0121—For support of Office of Statewide Health Planning and Development, for payment to Item 4140-001-0001, payable from the Hospital Building Fund	27,196,000

Item	Amount
Provisions:	
1. Notwithstanding any other provision of law, upon request by the Office of Statewide Health Planning and Development, the Department of Finance may augment the amount available for expenditure in this item to pay costs associated with the review of hospital building plans. The augmentation may be effected not sooner than 30 days after notification in writing of the necessity thereof to the chairperson of the committee in each house of the Legislature that considers appropriations and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the chairperson of the committee, or his or her designee, may determine.	
4140-001-0143—For support of Office of Statewide Health Planning and Development, for payment to Item 4140-001-0001, payable from the California Health Data and Planning Fund	16,313,000
4140-001-0181—For support of Office of Statewide Health Planning and Development, for payment to Item 4140-001-0001, payable from the Registered Nurse Education Fund	1,897,000
4140-001-0890—For support of Office of Statewide Health Planning and Development, for payment to Item 4140-001-0001, payable from the Federal Trust Fund	285,000
4140-001-3064—For support of Office of Statewide Health Planning and Development, for payment to Item 4140-001-0001, payable from the Mental Health Practitioner Education Fund.....	206,000
4140-001-3068—For support of Office of Statewide Health Planning and Development, for payment to Item 4140-001-0001, payable from the Vocational Nurse Education Fund	131,000
4140-001-8007—For support of Office of Statewide Health Planning and Development, payable from the Specialty Care Fund	0
Provisions:	
1. Notwithstanding any other provision of law, upon request of the Office of Statewide Health Planning and Development, the Department of Finance may authorize expenditures of up to \$200,000 in excess of the amount appropriated in this item, if sufficient funds are available in the Specialty Care Fund, to pay costs associated with	

Item	Amount
<p>fundraising activities by a nonprofit organization as specified in Chapter 520, Statutes of 2001, not sooner than 30 days after notification in writing of the necessity therefor to the chairperson of the committee in each house of the Legislature that considers appropriations and the Chairperson of the Joint Legislative Budget Committee. The funds appropriated by this provision shall be made available consistent with the amount approved by the Department of Finance based on its review of the proposed contractual agreement for the fundraising activities.</p>	
<p>4140-017-0143—For support of Office of Statewide Health Planning and Development, payable from the California Health Data and Planning Fund</p>	99,000
<p>Schedule:</p>	
<p>(1) 60-Healthcare Information.....</p>	99,000
<p>Provisions:</p>	
<p>1. The funding appropriated in this item is limited to the amount specified in Control Section 17.00. These funds are to be used in support of compliance activities related to the federal Health Insurance Portability and Accountability Act (HIPAA) of 1996.</p>	
<p>4140-101-0001—For local assistance, Office of Statewide Health Planning and Development</p>	0
<p>Schedule:</p>	
<p>(1) 30-Healthcare Workforce</p>	5,331,000
<p>(2) Reimbursements.....</p>	-400,000
<p>(2.5) Amount payable from California Health Data and Planning Fund (Item 4140-101-0143)</p>	(-3,931,000)
<p>(3) Amount payable from the Federal Trust Fund (Item 4140-101-0890).....</p>	-1,000,000
<p>Provisions:</p>	
<p>1. Notwithstanding subdivision (a) of Section 2.00 of this act, or any other provision of law, the funds appropriated in this item for contracts with accredited medical schools or programs that train primary care physicians’ assistants or primary care nurse practitioners, as well as contracts with hospitals or other health care delivery systems located in California, that meet the standards of the Health Manpower Policy Commission established pursuant to Article 1 (commencing with</p>	

Item	Amount
Section 128200) of Chapter 4 of Part 3 of Division 107 of the Health and Safety Code, shall continue to be available for the 2005–06, 2006–07, and 2007–08 fiscal years.	
4140-101-0143—For local assistance, Office of State-wide Health Planning and Development, for payment to Item 4140-101-0001, payable from the California Health Data and Planning Fund	3,931,000
Provisions:	
1. Notwithstanding subdivision (a) of Section 2.00 of this act, or any other provision of law, the funds appropriated in this item for contracts with accredited medical schools, or programs that train primary care physicians’ assistants or primary care nurse practitioners, as well as contracts with hospitals or other health care delivery systems located in California, that meet the standards of the California Healthcare Workforce Policy Commission established pursuant to Article 1 (commencing with Section 128200) of Chapter 4 of Part 3 of Division 107 of the Health and Safety Code, shall continue to be available for the 2005–06, 2006–07, and 2007–08 fiscal years.	
4140-101-0890—For local assistance, Office of State-wide Health Planning and Development, for payment to Item 4140-101-0001, payable from the Federal Trust Fund	1,000,000
4170-001-0001—For support of Department of Aging... Schedule:	3,529,000
(5) 10-Nutrition	2,547,000
(1) 11-Aging Programs	81,000
(1.5) 20-Senior Community Employment Service.....	598,000
(2.1) 30-Supportive Services and Centers	4,868,000
(2.2) 40-Special Projects	5,921,000
(3) 50.01-Administration.....	13,568,000
(4) 50.02-Distributed Administration ...	-13,568,000
(5) Reimbursements.....	-3,058,000
(6) Amount payable from the State HICAP Fund (Item 4170-001-0289).....	-193,000
(7) Amount payable from the Federal Trust Fund (Item 4170-001-0890).	-7,135,000

Item	Amount
(8) Amount payable from the Federal Citation Penalties Account, Special Deposit Fund (Item 4170-003-0942).....	-100,000
4170-001-0289—For support of Department of Aging, for payment to Item 4170-001-0001, payable from the State HICAP Fund.....	193,000
4170-001-0890—For support of Department of Aging, for payment to Item 4170-001-0001, payable from the Federal Trust Fund.....	7,135,000
Provisions:	
1. The Department of Finance may authorize the transfer of funds between this item and Item 4170-101-0890 no sooner than 30 days after written notification to the chairpersons of the fiscal committees of each house and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the Chairperson of the Joint Legislative Budget Committee may determine. The notification shall include: (a) the amount of the proposed transfer; (b) an identification of the purposes for which the funds will be used; (c) documentation that the proposed activities must be carried out in the current year and that no other funds are available for their support; and (d) the impact of any transfer on the level of services.	
4170-003-0942—For support of Department of Aging, for payment to Item 4170-001-0001, payable from the Federal Citation Penalties Account, Special Deposit Fund.....	100,000
4170-017-0001—For support of Department of Aging... Schedule:	12,000
(1) 21-Medi-Cal Programs	24,000
(2) Reimbursements.....	-12,000
Provisions:	
1. The funding appropriated in this item is limited to the amount specified in Control Section 17.00. These funds are to be used in support of compliance activities related to the federal Health Insurance Portability and Accountability Act (HIPAA) of 1996.	
4170-101-0001—For local assistance, Department of Aging	31,452,000
Schedule:	
(1) 11-Aging Programs	2,769,000
(1.1) 10-Nutrition	72,384,000

Item	Amount
(1.2) 20-Senior Community Employment Service.....	9,149,000
(1.3) 30-Supportive Services and Centers.....	67,832,000
(1.4) 40-Special Projects.....	20,739,000
(2) Reimbursements.....	-3,228,000
(3) Amount payable from the State HICAP Fund (Item 4170-101-0289).....	-1,580,000
(4) Amount payable from the Federal Trust Fund (Item 4170-101-0890).....	-135,171,000
(5) Amount payable from the Federal Citation Penalties Account, Special Deposit Fund (Item 4170-103-0942).....	-1,442,000
Provisions:	
1. To the extent the United States enacts a minimum wage equal to or greater than that of California, state funding provided in this item for the Senior Community Service Employment Program shall revert to the General Fund.	
4170-101-0289—For local assistance, Department of Aging, for payment to Item 4170-101-0001, payable from the State HICAP Fund.....	1,580,000
4170-101-0890—For local assistance, Department of Aging, for payment to Item 4170-101-0001, payable from the Federal Trust Fund	135,171,000
Provisions:	
1. Provision 1 of Item 4170-001-0890 is also applicable to this item.	
2. Notwithstanding subdivision (d) of Section 28.00 of this act, the Department of Finance, upon notification by the California Department of Aging, may authorize augmentations in this item for budget revisions submitted by Area Agencies on Aging and approved by the Department of Aging for estimated entitlements of per-meal reimbursements from the U.S. Department of Agriculture and for funds allocated to Area Agencies on Aging for federal Title III and Title VII one-time-only allocations.	
4170-103-0942—For local assistance, Department of Aging, for payment to Item 4170-101-0001, payable from the Federal Citation Penalties Account, Special Deposit Fund.....	1,442,000

Item	Amount
Provisions:	
1. Notwithstanding any other provision of law, funds appropriated by this item shall be allocated by the Department of Aging to each local ombudsman program in accordance with a formula calculated on the number of beds in licensed skilled nursing home facilities in each program's area of service in proportion to the total number of beds in licensed skilled nursing homes in the state.	
4180-001-0983—For support of Commission on Aging, payable from the California Fund for Senior Citizens.....	289,000
Provisions:	
1. Funds appropriated in this item from the California Fund for Senior Citizens shall be allocated by the Commission on Aging for the purposes specified in Section 18723 of the Revenue and Taxation Code.	
2. Pursuant to Section 18723 of the Revenue and Taxation Code, the balance of this item as well as the balance of prior year appropriations from the California Fund for Senior Citizens may be carried over and expended in any following fiscal year.	
3. Notwithstanding any other provision of law, the Director of Finance may authorize expenditures from the California Fund for Senior Citizens for the Commission on Aging in excess of the amount appropriated not sooner than 30 days after notification in writing of the necessity therefor is provided to the chairpersons of the fiscal committees and the Chairperson of the Joint Legislative Budget Committee.	
4180-002-0886—For support of Commission on Aging, payable from the California Seniors Special Fund	70,000
Provisions:	
1. Pursuant to Section 18773 of the Revenue and Taxation Code, the balance of this item as well as the balance of prior year appropriations from the California Seniors Special Fund may be carried over and expended in any following fiscal year.	
2. Notwithstanding any other provision of law, the Director of Finance may authorize expenditures from the California Seniors Special Fund for the Commission on Aging in excess of the amount appropriated not sooner than 30 days after notifica-	

Item	Amount
tion in writing of the necessity thereof is provided to the chairpersons of the fiscal committees and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the chairperson of the committee, or his or her designee, may in each instance determine.	
4180-002-0890—For support of Commission on Aging, payable from the Federal Trust Fund.....	313,000
4200-001-0001—For support of Department of Alcohol and Drug Programs.....	4,578,000
Schedule:	
(1) 15-Alcohol and Other Drug Services Program.....	41,379,000
(2) 30.01-State Administration	10,770,000
(3) 30.02-State Administration— Distributed.....	-10,770,000
(4) Reimbursements.....	-4,252,000
(5) Amount payable from the Driving-Under-the-Influence Program Licensing Trust Fund (Item 4200-001-0139).....	-1,634,000
(6) Amount payable from the Narcotic Treatment Program Licensing Trust Fund (Item 4200-001-0243).....	-1,135,000
(6.5) Amount payable from Indian Gaming Special Distribution Fund (Item 4200-001-0367)	-3,000,000
(7) Amount payable from the Audit Repayment Trust Fund (Item 4200-001-0816).....	-67,000
(8) Amount payable from the Federal Trust Fund (Item 4200-001-0890).....	-23,076,000
(9) Amount payable from the Substance Abuse Treatment Trust Fund (Item 4200-001-3019)	-3,637,000
Provisions:	
1. By January 10, 2005, the Department of Alcohol and Drug Programs shall report to the Chairperson of the Joint Legislative Budget Committee and the chairs of the fiscal committees of both houses of the Legislature regarding the feasibility and advisability of establishing a quality improvement fee for licensed narcotic treatment providers as a means of obtaining additional federal funds	

Item	Amount
<p>for the support of treatment services, enhancing departmental quality assurance activities and antifraud efforts, and increasing reimbursements to Narcotic Treatment Program providers. At its discretion, the department may also report on any other alternatives it determines are feasible and advisable for increasing federal financial support of the Drug Medi-Cal Program or other state substance abuse treatment programs. It is the intent of the Legislature that the Department of Health Services assist the Department of Alcohol and Drug Programs in its analysis in matters pertaining to this report and relating to compliance with applicable federal Medicaid law and regulations.</p>	
<p>4200-001-0139—For support of Department of Alcohol and Drug Programs, for payment to Item 4200-001-0001, payable from the Driving-Under-the-Influence Program Licensing Trust Fund</p>	1,634,000
<p>Provisions:</p>	
<p>1. Notwithstanding any other provision of law, the Director of Finance may authorize expenditures for the Driving-Under-the-Influence Program Licensing Trust Fund in excess of the amount appropriated not sooner than 30 days after notification in writing of the necessity therefor is provided to the chairpersons of the fiscal committees and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the chairperson of the committee, or his or her designee, may in each instance determine.</p>	
<p>4200-001-0243—For support of Department of Alcohol and Drug Programs, for payment to Item 4200-001-0001, payable from the Narcotic Treatment Program Licensing Trust Fund</p>	1,135,000
<p>Provisions:</p>	
<p>1. Notwithstanding any other provision of law, the Director of Finance may authorize expenditures for the Narcotic Treatment Program Licensing Trust Fund in excess of the amount appropriated not sooner than 30 days after notification in writing of the necessity therefor is provided to the chairpersons of the fiscal committees and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the chairperson of the committee, or his or her designee, may in each instance determine.</p>	

Item	Amount
4200-001-0367—For support of Department of Alcohol and Drug Programs, for payment to Item 4200-001-0001, payable from the Indian Gaming Special Distribution Fund.....	3,000,000
4200-001-0816—For support of Department of Alcohol and Drug Programs, for payment to Item 4200-001-0001, payable from the Audit Repayment Trust Fund	67,000
4200-001-0890—For support of Department of Alcohol and Drug Programs, for payment to Item 4200-001-0001, payable from the Federal Trust Fund	23,076,000
Provisions:	
1. Of the amount appropriated in this item, \$2,050,000 is available for information technology projects. These funds may not be expended without the prior approval of the required planning documents for technology projects by both the Department of Information Technology and the Department of Finance.	
4200-001-3019—For support of Department of Alcohol and Drug Programs, for payment to Item 4200-001-0001, payable from the Substance Abuse Treatment Trust Fund.....	3,637,000
Provisions:	
1. Funds appropriated in this item are in lieu of the amounts that otherwise would have been appropriated for administration pursuant to Section 11999.6 of the Health and Safety Code.	
2. Notwithstanding any other provision of law, the Department of Finance may authorize a loan from the General Fund to the Substance Abuse Treatment Trust Fund for administrative costs of the State Department of Alcohol and Drug Programs made necessary by the provisions of the Substance Abuse and Crime Prevention Act of 2000. The amounts so transferred are in augmentation of Item 4200-001-3019, as directed by the Department of Finance. The moneys shall be repaid to the General Fund without interest, from the next annual allocation of the Substance Abuse Treatment Trust Fund pursuant to Section 11999.6 of the Health and Safety Code, prior to the distribution of trust funds to the counties and state departments.	
4200-017-0001—For support of Department of Alcohol and Drug Programs.....	817,000

Item	Amount
Schedule:	
(1) 15-Alcohol and Other Drug Services Program.....	1,764,000
(2) Reimbursements.....	-947,000
4200-101-0001—For local assistance, Department of Alcohol and Drug Programs	31,143,000
Schedule:	
(1) 15-Alcohol and Other Drug Services Program.....	288,639,000
(2) Reimbursements.....	-15,395,000
(3) Amount payable from the Federal Trust Fund (Item 4200-101-0890)	-241,957,000
(4) Amount payable from the Resident-Run Housing Revolving Fund (Item 4200-101-0977)	-144,000
Provisions:	
1. Upon approval by the Director of Finance, the Controller shall transfer such funds as are necessary between this item and Items 4200-001-0001, 4200-102-0001, 4200-103-0001, and 4200-104-0001. In determining which transfers are necessary pursuant to this provision, the director shall assess those programs and operations that have the most critical need. In making this assessment, the director shall consider such factors as caseload requirements, availability of personnel to provide essential services, other funding sources, and relevant information provided by affected state agencies.	
2. Upon approval by the Department of Finance, one or more short-term loans not to exceed a cumulative total of \$59,745,000 may be made available from the General Fund when there is a delay in the allocation of federal Substance Abuse Prevention and Treatment (SAPT) Block Grant funds to California. The loans shall be repaid, with interest calculated pursuant to subdivision (a) of Section 16314 of the Government Code, upon receipt of the federal SAPT Block Grant.	
4200-101-0890—For local assistance, Department of Alcohol and Drug Programs, for payment to Item 4200-101-0001, payable from the Federal Trust Fund.....	241,957,000
Provisions:	
1. Upon order of the Department of Finance, the Controller shall transfer funds as necessary between this item and Item 4200-001-0890. In de-	

Item	Amount
<p>termining which transfers are necessary pursuant to this provision, the director shall assess those programs and operations that have the most critical need. In making this assessment, the director shall consider such factors as caseload requirements, availability of personnel to provide essential services, other funding sources, and relevant information provided by affected state agencies.</p>	
<p>4200-101-0977—For local assistance, Department of Alcohol and Drug Programs, for payment to Item 4200-101-0001, payable from the Resident-Run Housing Revolving Fund.....</p>	144,000
<p>Provisions:</p> <ol style="list-style-type: none"> 1. To the extent that moneys available in the Resident-Run Housing Revolving Fund are less than the amount appropriated by this item, this appropriation shall be limited to that lesser amount. 2. Notwithstanding any other provision of law, if revenues and loan repayments to the Resident-Run Housing Revolving Fund are sufficient to create additional allocation workload, the Director of Finance may authorize expenditures for the Department of Alcohol and Drug Programs in excess of the amount appropriated not sooner than 30 days after notification in writing of the necessity therefor is provided to the chairpersons of the fiscal committees and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the chairperson of the committee, or his or her designee, may in each instance determine. 	
<p>4200-102-0001—For local assistance, Department of Alcohol and Drug Programs, for perinatal substance abuse treatment programs (Drug Medi-Cal).....</p>	2,183,000
<p>Schedule:</p> <ol style="list-style-type: none"> (1) 15-Alcohol and Other Drug Services Program..... 4,366,000 (2) Reimbursements..... -2,183,000 	
<p>Provisions:</p> <ol style="list-style-type: none"> 1. Upon approval by the Director of Finance, the Controller shall transfer such funds as are necessary between this item and Items 4200-001-0001, 4200-101-0001, 4200-103-0001, and 4200-104-0001. In determining which transfers are necessary pursuant to this provision, the director shall assess those programs and operations that have the most critical need. In making this assessment, 	

Item	Amount
<p>the director shall consider such factors as case-load requirements, availability of personnel to provide essential services, other funding sources, and relevant information provided by affected state agencies.</p> <p>2. The funds appropriated by this item, are available to provide funding for the state’s share of expenditures for perinatal substance abuse services provided to persons eligible for Medi-Cal.</p> <p>3. The funds appropriated in this item are available to provide funding for the state’s share of expenditures for substance abuse services provided to persons eligible for Medi-Cal.</p> <p>4. Notwithstanding subdivision (a) of Section 2.00 and Section 26.00, the Department of Finance may authorize a transfer of expenditure authority between this item and Item 4200-103-0001 so that the funds appropriated in either item may be used to pay the state and federal share of prior fiscal years’ allowable Medi-Cal costs that exceed the amount encumbered in prior fiscal years. The Director of Finance shall notify the Legislature within 10 days after authorizing a transfer pursuant to this provision unless prior notification of the transfer has been included in the Medi-Cal estimates submitted pursuant to Section 14100.5 of the Welfare and Institutions Code.</p> <p>5. Effective July 1, 2004, the maximum reimbursement rates for perinatal Drug Medi-Cal services in the fiscal year shall be the same rate that was authorized in regulation for the 2002–03 fiscal year.</p>	
4200-103-0001—For local assistance, Department of Alcohol and Drug Programs, Drug Medi-Cal Services	55,165,000
Schedule:	
(1) 15-Alcohol and Other Drug Services Program.....	105,181,000
(2) Reimbursements	–50,016,000
Provisions:	
1. Upon approval by the Director of Finance, the Controller shall transfer such funds as are necessary between this item and Items 4200-001-0001, 4200-101-0001, 4200-102-0001, and 4200-104-0001. In determining which transfers are necessary pursuant to this provision, the director shall assess those programs and operations that have the most critical need. In making this assessment,	

Item

Amount

the director shall consider such factors as caseload requirements, availability of personnel to provide essential services, other funding sources, and relevant information provided by affected state agencies.

- 2. The funds appropriated in this item are available to provide funding for the state’s share of expenditures for substance abuse services provided to persons eligible for Medi-Cal.
- 3. Notwithstanding subdivision (a) of Section 2.00 and Section 26.00, the Department of Finance may authorize a transfer of expenditure authority between this item and Item 4200-102-0001 so that the funds appropriated in either item may be used to pay the state and federal share of prior fiscal years’ allowable Medi-Cal costs that exceed the amount encumbered in prior fiscal years. The Director of Finance shall notify the Legislature within 10 days after authorizing a transfer pursuant to this provision unless prior notification of the transfer has been included in the Medi-Cal estimates submitted pursuant to Section 14100.5 of the Welfare and Institutions Code.
- 4. Notwithstanding any other provision of law, both the federal and nonfederal shares of any moneys recovered for previously paid drug Medi-Cal program services provided pursuant to Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code are hereby appropriated and shall be expended as soon as practicable for drug Medi-Cal program services, as defined in the Welfare and Institutions Code.
- 5. Effective July 1, 2004, the maximum reimbursement rates for nonperinatal Drug Medi-Cal services in the fiscal year shall be the same rate that was authorized in regulation for the 2002–03 fiscal year.

4200-104-0001—For local assistance, Department of Alcohol and Drug Programs, for perinatal substance abuse treatment programs	23,457,000
Schedule:	
(1) 15-Alcohol and Other Drug Services Program.....	40,511,000
(2) Amount payable from the Federal Trust Fund (Item 4200-104-0890).–	17,054,000

Item		Amount
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Provisions:

1. Upon approval by the Director of Finance, the Controller shall transfer such funds as are necessary between this item and Items 4200-001-0001, 4200-101-0001, 4200-102-0001, and 4200-103-0001. In determining which transfers are necessary pursuant to this provision, the director shall assess those programs and operations that have the most critical need. In making this assessment, the director shall consider such factors as caseload requirements, availability of personnel to provide essential services, other funding sources, and relevant information provided by affected state agencies.
2. Of the funds appropriated in this item, \$6,408,000 shall be used to fund existing residential perinatal treatment programs that were begun through federal Center for Substance Abuse Treatment grants but whose grants have since expired and currently are constituted as Women and Children’s Residential Treatment Services. For counties in which there is such a provider, the Department of Alcohol and Drug Programs shall include language in those counties’ allocation letters that indicates the amount of the allocation designated for the provider during the fiscal year. Pursuant to Section 11840.1 of the Health and Safety Code, the treatment programs that were established through federal Center for Substance Abuse Treatment grants are not subject to the county 10-percent match. All of the funds allocated for programs shall be passed through those counties directly to the designated nine residential treatment programs in each county, respectively.
3. Notwithstanding any specified amount in other provisions of this item, any general reduction in this item shall be made proportionately between the Women and Children’s Residential Treatment Services and other perinatal programs.

4200-104-0890—For support of Department of Alcohol and Drug Programs, for payments to Item 4200-104-0001, payable from the Federal Trust Fund		17,054,000
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4260-001-0001—For support of Department of Health Services		224,177,000
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Schedule:

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| (1) 10-Public and Environmental Health | | 301,442,000 |
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Item	Amount
(2) 20-Health Care Services	548,255,000
(4) 30.01-Departmental Administration.....	45,170,000
(5) 30.02-Departmental Administration—Distributed	-42,574,000
(6) Reimbursements	-37,385,000
(7) Amount payable from the Breast Cancer Research Account (Item 4260-001-0007)	-1,657,000
(8) Amount payable from the Breast Cancer Control Account (Item 4260-001-0009)	-8,099,000
(9) Amount payable from the Nuclear Planning Assessment Special Account (Item 4260-001-0029)	-691,000
(10) Amount payable from the Motor Vehicle Account, State Transportation Fund (Item 4260-001-0044)...	-1,155,000
(11) Amount payable from the Sale of Tobacco to Minors Control Account (Item 4260-001-0066)	-2,370,000
(12) Amount payable from the Occupational Lead Poisoning Prevention Account (Item 4260-001-0070).....	-2,794,000
(13) Amount payable from the Medical Waste Management Fund (Item 4260-001-0074)	-1,164,000
(14) Amount payable from the Radiation Control Fund (Item 4260-001-0075).....	-18,362,000
(15) Amount payable from the Tissue Bank License Fund (Item 4260-001-0076)	-275,000
(16) Amount payable from the Childhood Lead Poisoning Prevention Fund (Item 4260-001-0080).....	-10,124,000
(17) Amount payable from the Export Document Program Fund (Item 4260-001-0082)	-148,000
(18) Amount payable from the Clinical Laboratory Improvement Fund (Item 4260-001-0098)	-3,406,000
(19) Amount payable from the Health Statistics Special Fund (Item 4260-001-0099)	-16,503,000

Item	Amount
(20) Amount payable from the Wine Safety Fund (Item 4260-001-0116).....	-54,000
(21) Amount payable from the Water Device Certification Special Account (Item 4260-001-0129).....	-191,000
(22) Amount payable from the Food Safety Fund (Item 4260-001-0177).....	-4,107,000
(23) Amount payable from the Environmental Laboratory Improvement Fund (Item 4260-001-0179).....	-3,478,000
(24) Amount payable from the Genetic Disease Testing Fund (Item 4260-001-0203).....	-70,262,000
(25) Amount payable from the Health Education Account, Cigarette and Tobacco Products Surtax Fund (Item 4260-001-0231)	-4,936,000
(26) Amount payable from the Research Account, Cigarette and Tobacco Products Surtax Fund (Item 4260-001-0234)	-5,026,000
(27) Amount payable from the Unallocated Account, Cigarette and Tobacco Products Surtax Fund (Item 4260-001-0236)	-2,855,000
(28) Amount payable from the Drinking Water Operator Certification Special Account (Item 4260-001-0247).....	-1,208,000
(29) Amount payable from the Nursing Home Administrator's State License Examining Fund (Item 4260-001-0260).....	-467,000
(29.1) Amount payable from the Infant Botulism Treatment and Prevention Fund (Item 4260-001-0272)...	-3,785,000
(30) Amount payable from the Safe Drinking Water Account (Item 4260-001-0306)	-8,410,000
(31) Amount payable from the Registered Environmental Health Specialist Fund (Item 4260-001-0335).....	-244,000

Item	Amount
(32) Amount payable from the Mosquito-borne Disease Surveillance Account (Item 4260-001-0478).....	-37,000
(33) Amount payable from the Drinking Water Treatment and Research Fund (Item 4260-001-0622).....	-595,000
(34) Amount payable from the Domestic Violence Training and Education Fund (Item 4260-001-0642)...	-761,000
(35) Amount payable from the Emergency Services and Supplemental Payments Fund (Item 4260-001-0693).....	-143,000
(36) Amount payable from the California Alzheimer's and Related Disorders Research Fund (Item 4260-001-0823).....	-794,000
(37) Amount payable from the Medical Inpatient Payment Adjustment Fund (Item 4260-001-0834).....	-2,307,000
(38) Amount payable from the Federal Trust Fund (Item 4260-001-0890).....	-409,675,000
(39) Amount payable from the Drug and Device Safety Fund (Item 4260-001-3018).....	-1,075,000
(39.5) Amount payable from the Medical Marijuana Program Fund (Item 4260-001-3074).....	-983,000
(40) Amount payable from the Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002 (Item 4260-001-6031).....	-2,207,000
(41) Amount payable from the Asthma and Lung Disease Research Fund (Item 4260-001-8003).....	-183,000
(42) Amount payable from the Lupus Foundation of America Fund (Item 4260-001-8006).....	-250,000

Provisions:

1. Except as otherwise prohibited by law, the department shall promulgate emergency regulations to adjust the public health fees set by regulation to an amount, such that if the new fees were effective throughout the 2004–05 fiscal year, the esti-

Item

Amount

mated revenues would be sufficient to offset at least 95 percent of the approved program level intended to be supported by those fees.

The General Fund fees of the State Department of Health Services (DHS) that are subject to the annual fee adjustment pursuant to subdivision (a) of Section 100425 of the Health and Safety Code shall be increased by 0.73 percent. The special fund fees of DHS that are subject to the annual fee adjustment pursuant to subdivision (a) of Section 100425 of the Health and Safety Code may be increased by 0.73 percent only if the fund condition statements project fund reserves to be less than 10 percent and the revenues projected for the 2004–05 fiscal year are less than the appropriation contained in this act.

2. Effective July 1, 2004, the annual fee for a general acute care hospital, acute psychiatric hospital, special hospital, general acute care rehabilitation hospital and chemical dependency recovery hospital shall be \$64.34 per bed. Effective July 1, 2004, the annual fee for a skilled nursing facility, intermediate care facility, or intermediate care facility for the developmentally disabled is \$222.56 per bed.

The fees of the State Department of Health Services that are subject to the annual fee adjustment pursuant to subdivision (a) of Section 100445 of the Health and Safety Code shall not be increased for the 2004–05 fiscal year.

Notwithstanding subdivision (b) of Section 100450 of the Health and Safety Code, departmental fees that are subject to the annual fee adjustment pursuant to subdivision (a) of Section 100450 of the Health and Safety Code shall not be increased for the 2004–05 fiscal year.

3. Provision 4 of Item 4260-111-0001 also applies to this item.
4. The Department of Health Services shall limit expenditures in this item to implement the Uniform Anatomical Gift Act (Chapter 819, Statutes of 2000) to the amount of actual fees collected from tissue banks.
5. \$7,380,000 of the funds appropriated in this item are intended to pay the General Fund portion of annual rents for the Capitol East End Office Complex.

Item	Amount
6. Effective February 1, 2004, the Department of Health Services shall report semiannually in writing on the results of the additional positions established under the 2003 Medi-Cal Anti-Fraud Initiative to the chairperson of the committee in each house that considers appropriations and the Chairperson of the Joint Legislative Budget Committee. The report shall include the results of the error rate study and random claim sampling process, the number of positions filled by division, and, for each of the components of the initiative, the amount of savings and cost avoidance achieved and estimated, the number of providers sanctioned, and the number of claims and beneficiary records reviewed.	
7. By November 1, 2004, the Department of Health Services shall report in writing on the results of the Medi-Cal error rate study to the chairperson of the committee in each house of the Legislature that considers appropriations and the Chairperson of the Joint Legislative Budget Committee.	
8. The Department of Health Services shall inform the fiscal and policy committees of the Legislature by November 1, 2004, regarding specific actions they have taken to improve their contract process to ensure that contracts for all services related to local assistance funding, as well as administrative and business needs, are developed and executed in a timely and effective manner. A comprehensive letter regarding the specific actions taken may be provided to the Legislature to meet this requirement.	
4260-001-0007—For support of Department of Health Services, for payment to Item 4260-001-0001, payable from the Breast Cancer Research Account	1,657,000
4260-001-0009—For support of Department of Health Services, for payment to Item 4260-001-0001, payable from the Breast Cancer Control Account.....	8,099,000
4260-001-0029—For support of Department of Health Services, for payment to Item 4260-001-0001, payable from the Nuclear Planning Assessment Special Account	691,000
4260-001-0044—For support of Department of Health Services, for payment to Item 4260-001-0001, payable from the Motor Vehicle Account, State Transportation Fund.....	1,155,000

Item	Amount
4260-001-0066—For support of Department of Health Services, for payment to Item 4260-001-0001, payable from the Sale of Tobacco to Minors Control Account.....	2,370,000
Provisions:	
1. The amount appropriated in this item includes revenues derived from the assessment of fines and penalties imposed as specified in Government Code Section 13332.18.	
4260-001-0070—For support of Department of Health Services, for payment to Item 4260-001-0001, payable from the Occupational Lead Poisoning Prevention Account.....	2,794,000
Provisions:	
1. The amount appropriated in this item includes revenues derived from the assessment of fines and penalties imposed as specified in Section 13332.18 of the Government Code.	
4260-001-0074—For support of Department of Health Services, for payment to Item 4260-001-0001, payable from the Medical Waste Management Fund	1,164,000
Provisions:	
1. The amount appropriated in this item includes revenues derived from the assessment of fines and penalties imposed as specified in Section 13332.18 of the Government Code.	
4260-001-0075—For support of Department of Health Services, for payment to Item 4260-001-0001, payable from the Radiation Control Fund	18,312,000
Provisions:	
1. The amount appropriated in this item includes revenues derived from the assessment of fines and penalties imposed as specified in Section 13332.18 of the Government Code.	
4260-001-0076—For support of Department of Health Services, for payment to Item 4260-001-0001, payable from the Tissue Bank License Fund.....	275,000
4260-001-0080—For support of Department of Health Services, for payment to Item 4260-001-0001, payable from the Childhood Lead Poisoning Prevention Fund	10,124,000
4260-001-0082—For support of Department of Health Services, for payment to Item 4260-001-0001, payable from the Export Document Program Fund	148,000

Item	Amount
4260-001-0098—For support of Department of Health Services, for payment to Item 4260-001-0001, payable from the Clinical Laboratory Improvement Fund	3,406,000
Provisions:	
1. The amount appropriated in this item includes revenues derived from the assessment of fines and penalties imposed as specified in Section 13332.18 of the Government Code.	
4260-001-0099—For support of Department of Health Services, for payment to Item 4260-001-0001, payable from the Health Statistics Special Fund.....	16,503,000
4260-001-0116—For support of Department of Health Services, for payment to Item 4260-001-0001, payable from the Wine Safety Fund	54,000
4260-001-0129—For support of Department of Health Services, for payment to Item 4260-001-0001, payable from the Water Device Certification Special Account.....	191,000
4260-001-0177—For support of Department of Health Services, for payment to Item 4260-001-0001, payable from the Food Safety Fund.....	4,107,000
4260-001-0179—For support of Department of Health Services, for payment to Item 4260-001-0001, payable from the Environmental Laboratory Improvement Fund.....	3,478,000
4260-001-0203—For support of Department of Health Services, for payment to Item 4260-001-0001, payable from the Genetic Disease Testing Fund.....	70,262,000
Provisions:	
1. Beginning in July 2004, the Department of Health Services shall provide on a quarterly basis to the chairperson of the budget committees in each house of the Legislature and the Chairperson of the Joint Legislative Budget Committee copies of the monthly status and oversight reports submitted to the Department of Finance for the Genetic Disease Branch Screening Information System.	
2. The Department of Health Services shall restructure its fee collection and customer service functions within the Genetic Disease Branch in order to be more efficient and effective at collecting fees and providing customer service for all of the programs it administers. This restructuring effort will enable fee collection and customer service to	

Item	Amount
each have a separate and distinct focus and will provide proper separation of accounting and cash-iering duties as recommended in the 1997 Bureau of State Audits report regarding these activities.	
4260-001-0231—For support of Department of Health Services, for payment to Item 4260-001-0001, payable from the Health Education Account, Cigarette and Tobacco Products Surtax Fund	4,936,000
4260-001-0234—For support of Department of Health Services, for payment to Item 4260-001-0001, payable from the Research Account, Cigarette and Tobacco Products Surtax Fund.....	5,026,000
4260-001-0236—For support of Department of Health Services, for payment to Item 4260-001-0001, payable from the Unallocated Account, Cigarette and Tobacco Products Surtax Fund.....	2,855,000
4260-001-0247—For support of Department of Health Services, for payment to Item 4260-001-0001, payable from the Drinking Water Operator Certification Special Account.....	1,208,000
4260-001-0260—For support of Department of Health Services, for payment to Item 4260-001-0001, payable from the Nursing Home Administrator’s State License Examining Fund.....	467,000
4260-001-0272—For support of Department of Health Services, for payment to Item 4260-001-0001, payable from the Infant Botulism Treatment and Prevention Fund	3,785,000
4260-001-0306—For support of Department of Health Services, for payment to Item 4260-001-0001, payable from the Safe Drinking Water Account	8,410,000
Provisions:	
1. The amount appropriated in this item includes revenues derived from the assessment of fines and penalties imposed as specified in Section 13332.18 of the Government Code.	
4260-001-0335—For support of Department of Health Services, for payment to Item 4260-001-0001, payable from the Registered Environmental Health Specialist Fund	244,000
4260-001-0478—For support of Department of Health Services, for payment to Item 4260-001-0001, payable from the Mosquitoborne Disease Surveillance Account	37,000

Item	Amount
4260-001-0622—For support of Department of Health Services, for payment to Item 4260-001-0001, payable from the Drinking Water Treatment and Research Fund.....	595,000
4260-001-0642—For support of Department of Health Services, for payment to Item 4260-001-0001, payable from the Domestic Violence Training and Education Fund	761,000
4260-001-0693—For support of Department of Health Services, for payment to Item 4260-001-0001, payable from the Emergency Services and Supplemental Payments Fund.....	143,000
Provisions:	
1. To the extent that moneys available in the Emergency Services and Supplemental Payments Fund are less than the amount appropriated in this item, this appropriation shall be limited to that lesser amount.	
2. Notwithstanding any other provision of law, if revenues to the Emergency Services and Supplemental Payments Fund are sufficient to create additional allocation workload, the Director of Finance may authorize expenditures for the Department of Health Services in excess of the amount appropriated not sooner than 30 days after notification in writing of the necessity therefor is provided to the chairpersons of the fiscal committees and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the chairperson of the committee, or his or her designee, may in each instance determine.	
4260-001-0823—For support of Department of Health Services, for payment to Item 4260-001-0001, payable from the California Alzheimer’s and Related Disorders Research Fund	794,000
4260-001-0834—For support of Department of Health Services, for payment to Item 4260-001-0001, payable from the Medi-Cal Inpatient Payment Adjustment Fund.....	2,307,000
4260-001-0890—For support of Department of Health Services, for payment to Item 4260-001-0001, payable from the Federal Trust Fund.....	409,675,000
Provisions:	
1. Of the funds appropriated in this item, \$54,014,000 shall be available for administration, research, and training projects. Notwithstanding	

Item

Amount

- Section 28.00 of this act, the State Department of Health Services shall report under that section any new project over \$200,000 or any increase in excess of \$400,000 for an identified project.
2. \$5,531,000 of the funds appropriated in this item are intended to pay the federal fund portion of annual rents for the Capitol East End Office Complex.
 3. The Department of Finance may authorize the transfer of amounts from this item to Item 4260-111-0890 in order to reflect modifications in the use of federal bioterrorism grants. The funds may not be approved sooner than 30 days after notification in writing of the necessity therefor to the chairperson of the committee in each house of the Legislature that considers appropriations and the Chairperson of the Joint Legislative Budget Committee, or no sooner than whatever lesser time the Chairperson of the Joint Legislative Budget Committee, or his or her designee, may in each instance determine.
 4. Notwithstanding any other provision of law, moneys made available for bioterrorism preparedness pursuant to this act shall be available for expenditure and encumbrance until August 30, 2005.
 5. The Department of Health Services shall include a request for funding in the state's application for Cooperative Agreement for funding from the federal Centers for Disease Control and Prevention's Public Health Preparedness and Responses to Bioterrorism Program regarding the state's efforts to establish reporting procedures for low-level-radioactive waste as contained in Section 115000.1 of the Health and Safety Code.
 6. The Department of Health Services shall notify the fiscal and relevant policy committees of the Legislature in a timely manner regarding the federal government's approval of the state's application for Cooperative Agreement for funding from the federal Centers for Disease Control and Prevention's Public Health Preparedness and Response to Bioterrorism Program. The notification shall include a summary of all policy and fiscal changes made by the federal government to the state's application. If additional changes are made

Item	Amount
throughout the fiscal year, the Department of Health Services shall notify the fiscal and relevant policy committees of the Legislature in a similar manner.	
4260-001-3018—For support of Department of Health Services, for payment to Item 4260-001-0001, payable from the Drug and Device Safety Fund.....	1,075,000
4260-001-3074—For support of Department of Health Services, for payment to Item 4260-001-0001, payable from the Medical Marijuana Program Fund.....	983,000
4260-001-6031—For support of Department of Health Services, for payment to Item 4260-001-0001, payable from the Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002	2,207,000
Provisions:	
1. The funds available in this item are intended to provide support costs pursuant to the Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002 (Proposition 50), associated with statewide water security improvements and the provision of safe drinking water grants and loans to local water agencies.	
4260-001-8003—For support of Department of Health Services, for payment to Item 4260-001-0001, payable from the Asthma and Lung Disease Research Fund	183,000
Provisions:	
1. The funds appropriated in this item are for allocation to the American Lung Association of California, pursuant to Section 18833 of the Revenue and Taxation Code, for research of specified lung diseases and asthma.	
4260-001-8006—For support of Department of Health Services, for payment to Item 4260-001-0001, payable from the Lupus Foundation of America, California Chapters Fund	250,000
Provisions:	
1. Notwithstanding any other provision of law, the balance as of June 30, 2004, for the Prostate Cancer Treatment Program is reappropriated and is available for expenditure through June 30, 2005.	
4260-002-0942—For support of Department of Health Services, payable from the Health Facilities Citation Penalties Account, Special Deposit Fund.....	5,002,000
4260-003-0001—For support of Department of Health Services, for rental payments on lease-revenue bonds (Richmond Laboratory).....	11,569,000

Item	Amount
Schedule:	
(1) Base Rental and Fees	12,122,000
(2) Insurance	64,000
(3) Reimbursements	-617,000
Provisions:	
1. The Controller shall transfer funds appropriated in this item according to a schedule to be provided by the State Public Works Board. The schedule shall be provided on a monthly basis or as otherwise might be needed to ensure debt requirements are met.	
4260-003-0044—For support of Department of Health Services, for rental payments on lease-revenue bonds, payable from the Motor Vehicle Account, State Transportation Fund	368,000
Schedule:	
(1) Base Rental and Fees	366,000
(2) Insurance	2,000
Provisions:	
1. The Controller shall transfer funds appropriated in this item according to a schedule to be provided by the State Public Works Board. The schedule shall be provided on a monthly basis or as otherwise might be needed to ensure debt requirements are met.	
4260-003-0080—For support of Department of Health Services, for rental payments on lease-revenue bonds, payable from the Childhood Lead Poisoning Prevention Fund	231,000
Schedule:	
(1) Base Rental and Fees	230,000
(2) Insurance	1,000
Provisions:	
1. The Controller shall transfer funds appropriated in this item according to a schedule to be provided by the State Public Works Board. The schedule shall be provided on a monthly basis or as otherwise might be needed to ensure debt requirements are met.	
4260-003-0098—For support of Department of Health Services, for rental payments on lease-revenue bonds, payable from the Clinical Lab Improvement Fund	96,000
Schedule:	
(1) Base Rental.....	96,000

Item	Amount
Provisions:	
1. The Controller shall transfer funds appropriated in this item according to a schedule to be provided by the State Public Works Board. The schedule shall be provided on a monthly basis or as otherwise might be needed to ensure debt requirements are met.	
4260-003-0179—For support of Department of Health Services, for rental payments on lease-revenue bonds, payable from the Environmental Laboratory Improvement Fund	5,000
Schedule:	
(1) Base Rental.....	5,000
Provisions:	
1. The Controller shall transfer funds appropriated in this item according to a schedule to be provided by the State Public Works Board. The schedule shall be provided on a monthly basis or as otherwise might be needed to ensure debt requirements are met.	
4260-003-0203—For support of Department of Health Services, for rental payments on lease-revenue bonds, payable from the Genetic Disease Testing Fund	2,793,000
Schedule:	
(1) Base Rental and Fees	2,778,000
(2) Insurance	15,000
Provisions:	
1. The Controller shall transfer funds appropriated in this item according to a schedule to be provided by the State Public Works Board. The schedule shall be provided on a monthly basis or as otherwise might be needed to ensure debt requirements are met.	
4260-003-0890—For support of Department of Health Services, for rental payments on lease-revenue bonds, payable from the Federal Trust Fund.....	57,000
Schedule:	
(1) Base Rental.....	57,000
Provisions:	
1. The Controller shall transfer funds appropriated in this item according to a schedule to be provided by the State Public Works Board. The schedule shall be provided on a monthly basis or as otherwise might be needed to ensure debt requirements are met.	

Item	Amount
4260-003-0942—For support of Department of Health Services, payable from the Federal Citation Penalties Account, Special Deposit Fund	909,000
4260-004-0942—For support of Department of Health Services, payable from the Local Education Agency Medi-Cal Recovery Account, Special Deposit Fund	1,500,000
4260-007-0890—For support of Department of Health Services, payable from the Federal Trust Fund	15,893,000
Provisions:	
1. Notwithstanding Section 28.00 of this act, adjustments may be made to align the federal funds for legislative actions and other technical adjustments affecting the recipient department’s appropriation authority.	
4260-011-0001—For transfer by the Controller to the Genetic Disease Testing Fund	(3,000,000)
Provisions:	
1. The amount transferred by this item is a loan to the Genetic Disease Testing Fund. This loan shall be repaid with interest calculated at the rate earned by the Pooled Money Investment Account at the time of transfer. Principal and interest earned on the loan shall be repaid in full no later than June 30, 2009.	
2. The transfer authorized by this item shall not be made until the Department of Health Services provides to the chairperson of the budget committee in each house of the Legislature and the Chairperson of the Joint Legislative Budget Committee an updated project schedule, cost estimates, and copies of oversight reports submitted to the Department of Finance for the Genetic Disease Branch Screening Information System.	
4260-011-0099—For transfer by the Controller, upon order of the Director of Finance, from the Health Statistics Special Fund to the Infant Botulism Treatment and Prevention Fund and the Medical Marijuana Program Fund.....	(1,483,000)
Provisions:	
1. Of the amount transferred by this item, \$500,000 is a loan to the Infant Botulism Treatment and Prevention Fund. This loan shall be repaid with interest calculated at the rate earned by the Pooled Money Investment Account at the time of the	

Item	Amount
transfer. Principal and interest shall be repaid in full after all General Fund loans to the Infant Botulism Program are repaid, and shall be paid in full no later than June 30, 2007.	
2. Of the amount transferred by this item, \$983,000 is a loan to the Medical Marijuana Program Fund. Notwithstanding any other provision of law, this loan shall be repaid no later than June 30, 2008, with interest calculated at the rate earned by the Pooled Money Investment Account at the time of the transfer.	
4260-017-0001—For support of Department of Health Services, for implementation of the Health Insurance Portability and Accountability Act.....	4,864,000
Schedule:	
(2) 20-Health Care Services	16,280,000
(3) Amount payable from the Genetic Disease Testing Fund (Item 4260-017-0203)	-495,000
(4) Amount payable from Federal Trust Fund (Item 4260-017-0890).....	-10,921,000
Provisions:	
1. The funding appropriated in this item is limited to the amount specified in Control Section 17.00. These funds are to be used in support of compliance activities related to the federal Health Insurance Portability and Accountability Act (HIPAA) of 1996.	
4260-017-0203—For support of Department of Health Services, for payment to Item 4260-017-0001, payable from the Genetic Disease Testing Fund, for implementation of the Health Insurance Portability and Accountability Act	495,000
Provisions:	
1. The funding appropriated in this item is limited to the amount specified in Control Section 17.00. These funds are to be used in support of compliance activities related to the federal Health Insurance Portability and Accountability Act (HIPAA) of 1996.	
4260-017-0890—For support of Department of Health Services, for payment to Item 4260-017-0001, payable from the Federal Trust Fund, for implementation of the Health Insurance Portability and Accountability Act	10,921,000

Item		Amount
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Provisions:

1. The funding appropriated in this item is limited to the amount specified in Control Section 17.00. These funds are to be used in support of compliance activities related to the federal Health Insurance Portability and Accountability Act (HIPAA) of 1996.

4260-101-0001—	For local assistance, Department of Health Services, Medical Assistance Program, payable from the Health Care Deposit Fund (0912) after transfer from the General Fund	11,728,217,000
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Schedule:

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|---|--|-----------------|
| (1) 20.10.010-Eligibility (County Administration)..... | | 1,505,166,000 |
| (2) 20.10.020-Fiscal Intermediary Management | | 280,890,000 |
| (3) 20.10.030-Benefits (Medical Care and Services)..... | | 28,531,016,000 |
| (4) Reimbursements | | -851,000 |
| (5) Amount payable from Childhood Lead Poisoning Prevention Fund (Item 4260-101-0080) | | -3,200,000 |
| (6) Amount payable from the Federal Trust Fund (Item 4260-101-0890)..... | | -18,577,411,000 |
| (7) Amount payable from Federal Trust Fund (Item 4260-103-0890)..... | | -7,393,000 |

Provisions:

1. The aggregate principal amount of disproportionate share hospital general obligation debt that may be issued in the 2004–05 fiscal year pursuant to subparagraph (A) of paragraph (2) of subdivision (f) of Section 14085.5 of the Welfare and Institutions Code shall be \$0.
2. Notwithstanding any other provision of law, both the federal and nonfederal shares of any moneys recovered for previously paid health care services, provided pursuant to Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code, are hereby appropriated and shall be expended as soon as practicable for medical care and services as defined in the Welfare and Institutions Code.
3. Notwithstanding any other provision of law, accounts receivable for recoveries as described in Provision 2 above shall have no effect upon the positive balance of the General Fund or the Health

Item

Amount

- Care Deposit Fund. Notwithstanding any other provision of law, moneys recovered as described in this item that are required to be transferred from the Health Care Deposit Fund to the General Fund shall be credited by the Controller to the General Fund without regard to the appropriation from which it was drawn.
4. Without regard to fiscal year, the General Fund shall make one or more loans available not to exceed a cumulative total of \$45,000,000 to be transferred as needed to the Health Care Deposit Fund to meet cash needs. The loans are subject to the repayment provisions of Section 16351 of the Government Code. Any additional loan requirement in excess of \$45,000,000 shall be processed in the manner prescribed by Section 16351 of the Government Code.
 5. Notwithstanding any other provision of law, the Director of Health Services may give public notice relative to proposing or amending any rule or regulation that could result in increased costs in the Medi-Cal program only after approval by the Department of Finance; and any rule or regulation adopted by the Director of Health Services and any communication that revises the Medi-Cal program shall be effective only from and after the date upon which it is approved by the Department of Finance.
 6. Of the funds appropriated in this item, up to \$50,000 may be allocated for attorneys' fees awarded pursuant to state or federal law without prior notification to the Legislature. Individual settlements authorized under this language shall not exceed \$5,000. The semiannual estimates of Medi-Cal expenditures due to the Legislature in January and May shall reflect attorney fees paid 15 or more days prior to the transmittal of the estimate.
 7. Change orders to the medical or the dental fiscal intermediary contract for amounts exceeding a total cost of \$250,000 shall be approved by the Director of Finance not sooner than 30 days after written notification of the change order is provided to the chairpersons of the fiscal and policy committees in each house and to the Chairperson of the Joint Legislative Budget Committee or not sooner than such lesser time as the Chairperson of

Item

Amount

the Joint Legislative Budget Committee, or his or her designee, may designate. The semiannual estimates of Medi-Cal expenditures due to the Legislature in January and May may constitute the notification required by this provision.

8. Recoveries of advances made to counties in prior years pursuant to Section 14153 of the Welfare and Institutions Code are reappropriated to the Health Care Deposit Fund for reimbursement of those counties where allowable costs exceeded the amounts advanced. Recoveries in excess of the amounts required to fully reimburse allowable costs shall be transferred to the General Fund. When a projected deficiency exists in the Medical Assistance Program, these funds, subject to notification to the Chairperson of the Joint Legislative Budget Committee, are appropriated and shall be expended as soon as practicable for the state's share of payments for medical care and services, county administration, and fiscal intermediary services.
9. The Department of Finance may transfer funds representing all or any portion of any estimated savings that are a result of improvements in the Medi-Cal claims processing procedures from the Medi-Cal services budget or the support budget of the State Department of Health Services (Item 4260-001-0001) to the fiscal intermediary budget item for purposes of making improvements to the Medi-Cal claims system.
10. Notwithstanding any other provision of law, the Department of Finance may authorize transfer of expenditure authority between Schedule (1), (2), (3) and Schedule (4) of this item and between this item and Items 4260-102-0001 and 4260-113-0001 in order to effectively administer the Medi-Cal program.

The Director of Finance shall notify the Legislature within 10 days of authorizing such a transfer unless prior notification of the transfer has been included in the Medi-Cal estimates submitted pursuant to Section 14100.5 of the Welfare and Institutions Code.
12. The Department of Health Services shall report in writing to the Chairperson of the Joint Legislative Budget Committee on the anticipated impact to local education agencies of any Medicaid

Item

Amount

State Plan Amendments that may be submitted to the federal Centers for Medicare and Medicaid Services and would affect local education agencies that serve as Medi-Cal service providers under an interagency agreement with the Department of Education.

- 13. The Department of Health Services shall pursue a federal law change to enable all county organized health systems to participate in the quality improvement assessment fee on Medi-Cal managed care plans.
- 14. Notwithstanding any other provision of law, the Department of Health Services may use up to \$1,300,000 to implement and conduct activities associated with long-term care integration, including support to local organizing groups for the purpose of completing activities to allow for the implementation of the integration initiatives.
- 15. The Department of Health Services shall transfer from the Health Care Deposit Fund to the Department of Developmental Services \$29,878,403 in residual funds held for the federal deferral related to the South Central Los Angeles Regional Center. The Department of Developmental Services shall identify for the Department of Health Services and the State Controller by letter the appropriate amounts and appropriations to receive this transfer.
- 16. Of the amount appropriated in this item, up to \$1,500,000 (total funds) shall be used by the Department of Health Services to reimburse, for costs associated with case management and medication adherence services, not-for-profit HIV/AIDS clinics that directly offer comprehensive medical services, specifically to include primary medical care, mental health, medical and/or psychosocial case management and pharmacy services, to Medi-Cal recipients receiving HIV/AIDS specific antiviral drugs. The department shall allocate these funds as deemed appropriate to ensure quality of care and access to medications.

4260-101-0080—For local assistance, Department of Health Services, for payment to Item 4260-101-0001, payable from the Childhood Lead Poisoning Prevention Fund

3,200,000

Item	Amount
4260-101-0693—Notwithstanding any other provision of law, moneys available in the Emergency Services and Supplemental Payments Fund, after the appropriation made by Item 4260-001-0693 of this act, are appropriated to the Department of Health Services for expenditure for local assistance for the purposes specified in Section 14085.6 of the Welfare and Institutions Code.	
4260-101-0890—For local assistance, Department of Health Services, for payment to Item 4260-101-0001, payable from the Federal Trust Fund.....	18,577,411,000
Provisions:	
1. Any of the provisions in Item 4260-101-0001 that are relevant to this item also apply to this item.	
2. In order to more thoroughly monitor conditions and outcomes pertaining to quality assurance and access to health care regarding the implementation of the Los Angeles County 1115 Waiver, the Department of Health Services may expend up to \$2,000,000 in additional federal trust funds if funds are made available for this purpose.	
4260-102-0001—For local assistance, Department of Health Services, Program 20.10.030-Benefits (Medical Care and Services), for supplemental reimbursement for debt service pursuant to Section 14085.5 of the Welfare and Institutions Code.....	64,211,000
Provisions:	
1. Notwithstanding any other provision of law, the Department of Finance may authorize transfer of expenditure authority between this item and Items 4260-101-0001 and 4260-113-0001 in order to effectively administer the Medi-Cal program. The Director of Finance shall notify the Legislature within 10 days of authorizing such a transfer unless prior notification of the transfer has been included in the Medi-Cal estimates submitted pursuant to Section 14100.5 of the Welfare and Institutions Code.	
4260-102-0890—For local assistance, Department of Health Services, Program 20.10.030-Benefits (Medical Care and Services), payable from the Federal Trust Fund, for supplemental reimbursement for debt service pursuant to Section 14085.5 of the Welfare and Institutions Code	64,211,000
Provisions:	
1. Any of the provisions in Item 4260-102-0001 that are relevant to this item also apply to this item.	

Item	Amount
4260-103-0890—For local assistance, for refugee services, Department of Health Services, for payment to Item 4260-101-0001, payable from the Federal Trust Fund	7,393,000
Provisions:	
1. Any of the provisions in Item 4260-101-0001 that are relevant to this item also apply to this item.	
4260-111-0001—For local assistance, Department of Health Services.....	408,872,000
Schedule:	
(1) 10.10.010-Vital Records Improvement Project	510,000
(2) 10.20.010-Environmental Management.....	164,175,000
(3) 10.20.040-Drinking Water.....	4,437,000
(4) 10.30.030-Childhood Lead Poisoning Prevention	11,000,000
(5) 10.30.040-Chronic Diseases.....	137,077,000
(6) 10.30.050-Communicable Disease Control	66,220,000
(7) 10.30.060-AIDS	333,619,000
(8) 20.30-County Health Services.....	50,867,000
(9) 20.40-Primary Care and Family Health.....	1,561,225,000
(10) Reimbursements.....	-170,423,000
(11) Amount payable from the Breast Cancer Control Account (Item 4260-111-0009).....	-8,086,000
(12) Amount payable from the Childhood Lead Poisoning Prevention Fund (Item 4260-111-0080).....	-11,300,000
(13) Amount payable from the Health Statistics Special Fund (Item 4260-111-0099)	-510,000
(14) Amount payable from the California Health Data and Planning Fund (Item 4260-111-0143).....	-200,000
(15) Amount payable from the Health Education Account, Cigarette and Tobacco Products Surtax Fund (Item 4260-111-0231).....	-47,354,000
(16) Amount payable from the Hospital Services Account, Cigarette and Tobacco Products Surtax Fund (Item 4260-111-0232).....	-31,625,000

Item	Amount
(17) Amount payable from the Physicians Services Account, Cigarette and Tobacco Products Surtax Fund (Item 4260-111-0233).....	-3,007,000
(18) Amount payable from the Unallocated Account, Cigarette and Tobacco Products Surtax Fund (Item 4260-111-0236).....	-34,612,000
(19) Amount payable from the Child Health and Safety Fund (Item 4260-111-0279).....	-491,000
(20) Amount payable from the Drinking Water Treatment and Research Fund (Item 4260-111-0622).....	-4,374,000
(21) Amount payable from the Domestic Violence Training and Education Fund (Item 4260-111-0642)...	-1,050,000
(22) Amount payable from the Federal Trust Fund (Item 4260-111-0890)	-1,253,874,000
(23) Amount payable from the WIC Manufacturer Rebate Fund (Item 4260-111-3023)	-262,401,000
(24) Amount payable from the Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002 (Item 4260-111-6031).....	-90,951,000

Provisions:

1. Program 10.30.060-AIDS: The Office of AIDS in the State Department of Health Services, in allocating and processing contracts and grants, shall comply with the same requirements that are established for contracts and grants for other public health programs. The contracts or grants administered by the Office of AIDS shall be exempt from the Public Contract Code and shall be exempt from approval by the Department of General Services prior to their execution.
2. Program 20.40-Primary Care and Family Health: Counties may retain 50 percent of total enrollment and assessment fees that are collected by the counties for the CCS Program. Fifty percent of the enrollment and assessment fee for each county shall be offset from the state's match for that county.

Item	Amount
3. Nonfederal funds appropriated in this item and Item 4260-001-0001 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.	
4260-111-0009—For local assistance, Department of Health Services, for payment to Item 4260-111-0001, payable from the Breast Cancer Control Account	8,086,000
4260-111-0080—For local assistance, Department of Health Services, for payment to Item 4260-111-0001, payable from the Childhood Lead Poisoning Prevention Fund	11,300,000
4260-111-0099—For local assistance, Department of Health Services, for payment to Item 4260-111-0001, payable from the Health Statistics Special Fund	510,000
4260-111-0143—For local assistance, Department of Health Services, for payment to Item 4260-111-0001, payable from the California Health Data and Planning Fund	200,000
4260-111-0231—For local assistance, Department of Health Services, for payment to Item 4260-111-0001, payable from the Health Education Account, Cigarette and Tobacco Products Surtax Fund.....	47,354,000
4260-111-0232—For local assistance, Department of Health Services, for payment to Item 4260-111-0001, payable from the Hospital Services Account, Cigarette and Tobacco Product Surtax Fund	31,625,000
4260-111-0233—For local assistance, Department of Health Services, for payment to Item 4260-111-0001, payable from the Physician Services Account, Cigarette and Tobacco Products Surtax Fund.....	3,007,000
4260-111-0236—For local assistance, Department of Health Services, for payment to Item 4260-111-0001, payable from the Unallocated Account, Cigarette and Tobacco Products Surtax Fund.....	34,612,000
4260-111-0279—For local assistance, Department of Health Services, for payment to Item 4260-111-0001, payable from the Child Health and Safety Fund	491,000

Item	Amount
4260-111-0622—For local assistance, Department of Health Services, for payment to Item 4260-111-0001, payable from the Drinking Water Treatment and Research Fund	4,374,000
4260-111-0642—For local assistance, Department of Health Services, for payment to Item 4260-111-0001, payable from the Domestic Violence Training and Education Fund.....	1,050,000
4260-111-0890—For local assistance, Department of Health Services, for payment to Item 4260-111-0001, payable from the Federal Trust Fund.....	1,253,874,000
Provisions:	
1. Of the funds appropriated in this item, \$57,207,000 shall be available for administration, research, and training projects. Notwithstanding the provisions of Section 28.00 of this act, the State Department of Health Services shall report under that section any new project over \$200,000 or any increase in excess of \$400,000 for an identified project.	
2. Notwithstanding any other provision of law, moneys made available for bioterrorism preparedness pursuant to this act shall be available for expenditure and encumbrance until August 30, 2006.	
4260-111-3023—For local assistance, State Department of Health Services, for payment to Item 4260-111-0001, payable from the WIC Manufacturer Rebate Fund	262,401,000
4260-111-6031—For local assistance, State Department of Health Services, for payment to Item 4260-111-0001, payable from the Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002.....	90,951,000
4260-113-0001—For local assistance, Department of Health Services, for the Healthy Families Program (Medi-Cal)	117,108,000
Schedule:	
(1) 20.10.010-Eligibility (County Administration)	4,135,000
(2) 20.10.020-Fiscal Intermediary Management	149,000
(3) 20.10.030-Benefits (Medical Care and Services).....	280,462,000
(4) Amount payable from the Federal Trust Fund (Item 4260-113-0890)	-167,638,000

Item	Amount
Provisions:	
1. Notwithstanding any other provision of law, the Department of Finance may authorize transfer of expenditure authority between Schedules (1), (2), and (3) of this item and between this item and Items 4260-101-0001 and 4260-102-0001 in order to effectively administer the Medi-Cal program.	
The Director of Finance shall notify the Legislature within 10 days of authorizing such a transfer unless prior notification of the transfer has been included in the Medi-Cal estimates submitted pursuant to Section 14100.5 of the Welfare and Institutions Code.	
4260-113-0890—For local assistance, Department of Health Services, for payment to Item 4260-113-0001, payable from the Federal Trust Fund	167,638,000
Provisions:	
1. Any of the provisions in Item 4260-113-0001 that are relevant to this item also apply to this item.	
4260-115-0890—For transfer by the Controller from the Federal Trust Fund to the Safe Drinking Water State Revolving Loan Fund	85,000,000
4260-115-6031—For transfer by the Controller from the Water Security, Clean Drinking Water, Coastal and Beach Protection Fund of 2002 to the Safe Drinking Water State Revolving Loan Fund.....	17,000,000
4260-117-0001—For local assistance, Department of Health Services, for implementation of the Health Insurance Portability and Accountability Act	6,454,000
Schedule:	
(1) 20.10.010-Eligibility (County Administration)	5,597,000
(2) 20.10.020-Fiscal Intermediary Management	31,259,000
(3) 20.10.030-Benefits (Medical Care and Services)	0
(4) Amount payable from the Federal Trust Fund (Item 4260-117-0890).—	30,402,000
Provisions:	
1. The funding appropriated in this item is limited to the amount specified in Section 17.00 of this act. These funds are to be used in support of compliance activities related to the federal Health Insurance Portability and Accountability Act (HIPAA) of 1996.	

Item	Amount
2. Notwithstanding subdivision (a) of Section 2.00 and Section 26.00 of this act, the Department of Finance may authorize transfer of expenditure authority between Schedules (1) and (2). The Director of Finance shall notify the Legislature within 10 days of authorizing such a transfer unless prior notification of the transfer has been included in the Medi-Cal estimates submitted pursuant to Section 14100.5 of the Welfare and Institutions Code.	
4260-117-0890—For local assistance, Department of Health Services, for payment to Item 4260-117-0001, payable from the Federal Trust Fund, for implementation of the Health Insurance Portability and Accountability Act	30,402,000
Provisions:	
1. The funding appropriated in this item is limited to the amount specified in Control Section 17.00. These funds are to be used in support of compliance activities related to the federal Health Insurance Portability and Accountability Act (HIPAA) of 1996.	
2. Any of the provisions in Item 4260-117-0001 that are relevant to this item also apply to this item.	
4260-295-0001—For local assistance, Department of Health Services, for reimbursement, in accordance with the provisions of Section 6 of Article XIII B of the California Constitution or Section 17561 of the Government Code, of the costs of any new program or increased level of service of an existing program mandated by statute or executive order, for disbursement by the State Controller	4,000
Schedule:	
(1) 98.01.091.692-Pacific Beach Safety (Ch. 916, Stats. 1992)	1,000
(2) 98.01.095.589-SIDS Autopsies (Ch. 955, Stats. 1989)	0
(3) 98.01.108.888-AIDS Search Warrants (Ch. 1088, Stats. 1988)	1,000
(4) 98.01.116.381-Medi-Cal Beneficiary Death Notices (Ch. 102, Stats. 1981 and Ch. 1163, Stats. 1981)	1,000
(5) 98.01.159.788-Inmates AIDS Testing (Ch. 1597, Stats. 1988)	0

Item	Amount
(6) 98.01.160.390-Perinatal services for alcohol/drug exposed infants (Ch. 1603, Stats. 1990)	1,000
(7) 98.01.111.189-SIDS Training for Firefighters (Ch. 1111, Stats. 1989).....	0
(8) 98.01.026.891-SIDS contacts by Local Health Officers (Ch. 268, Stats. 1991).....	0
(9) 98.01.045.374-SIDS Notices (Ch. 453, Stats. 1974).....	0
Provisions:	
1. Except as provided in Provision 2 of this item, allocations of funds provided in this item to the appropriate local entities shall be made by the State Controller in accordance with the provisions of each statute or executive order that mandates the reimbursement of the costs, and shall be audited to verify the actual amount of the mandated costs in accordance with subdivision (d) of Section 17561 of the Government Code. Audit adjustments to prior year claims may be paid from this item. Funds appropriated in this item may be used to provide reimbursement pursuant to Article 5 (commencing with Section 17615) of Chapter 4 of Part 7 of Division 4 of Title 2 of the Government Code.	
2. If any of the scheduled amounts are insufficient to provide full reimbursement of costs, the State Controller may, upon notifying the Director of Finance in writing, augment those deficient amounts from the unencumbered balance of any other scheduled amounts therein. No order may be issued pursuant to this provision unless written notification of the necessity therefor is provided to the chairperson of the committee in each house that considers appropriations and the Chairperson of the Joint Legislative Budget Committee or his or her designee.	
3. Pursuant to Section 17581 of the Government Code, mandates identified in the appropriation schedule of this item with an appropriation of \$0 and included in the language of this provision are specifically identified by the Legislature for suspension during the 2004-05 fiscal year:	
(2) SIDS Autopsies (Ch. 955, Stats. 1989)	

Item	Amount
<ul style="list-style-type: none"> (5) Inmate AIDS testing (Ch.1597, Stats. 1988) (7) SIDS Training for Firefighters (Ch. 1111, Stats. 1989) 	
4260-301-0001—For capital outlay, Department of Health Services.....	200,000
Schedule:	
<ul style="list-style-type: none"> (1) 94.50.030-Southern California Laboratory Space—Study..... 	200,000
4260-401—Approximately \$3.4 million General Fund has been loaned to the Department of Health Services (DHS), Botulism Treatment and Prevention Fund, pursuant to Health and Safety Code, Section 123707 to support the development of the Botulism Immunoglobulin (BIG) vaccine. This loan is to be fully repaid now that BIG has been approved and licensed by the U.S. Food and Drug Administration. In conjunction with payments from the Botulism Treatment and Prevention Fund beginning in FY 2004–05, a reduction of \$500,000 has been made in Item 4260-001-0001, Program 10, Public and Environmental Health, until the loan is paid off. These funds will be restored after the debt to the General Fund has been satisfied.	
4260-490—Reappropriation, Department of Health Services. Notwithstanding any other provision of law, the balance of the funds for the appropriations provided in the following citations are reappropriated for expenditure pursuant to the following provisions and are available for encumbrance or expenditure until June 30, 2004:	
0001—General Fund	
<ul style="list-style-type: none"> (1) Item 4260-101-0001, Budget Act of 2002 (Ch. 379, Stats. 2002) 	
0890—Federal Trust Fund	
<ul style="list-style-type: none"> (1) Item 4260-101-0890, Budget Act of 2002 (Ch. 379, Stats. 2002) 	
Provisions:	
<ul style="list-style-type: none"> 1. It is the intent of this item to continue funding approved activities for the automation projects that, due to schedule changes, result in unexpended appropriations for one year and the need for additional funding in the following year. Therefore, notwithstanding any other provision of law, the balance of the appropriations for these automation projects may, upon approval of the Department of 	

Item	Amount
Finance, be reappropriated for transfer to and in augmentation of the corresponding items in this act. The funds reappropriated by this provision shall be made available consistent with the amount approved by the Department of Finance based on an approved special project report or equivalent document not sooner than 30 days after providing notification in writing to the chairperson of the fiscal committee of each house of the Legislature and the Chairperson of the Joint Legislative Budget Committee.	
4260-491—Reappropriation, Department of Health Services. Notwithstanding any other provision of law, the balances of the appropriations provided for in the following citations are reappropriated for the purposes and subject to the limitations, unless otherwise specified, provided for in those appropriations, and shall be available for encumbrance or expenditure until June 30, 2005, as specified.	
0589—Cancer Research Fund	
(1) Item 4260-001-0589, Budget Act of 2002 (Ch. 379, Stats. 2002). Funds appropriated in this item for the Cancer Research Program are made available for the 2004–05 fiscal year, subject to the provisions for the appropriation, and shall be continuously appropriated without regard to fiscal year until such time that each project currently funded has fulfilled their contractual obligation with the Department of Health Services.	
3020—Tobacco Settlement Fund	
(1) Item 4260-001-3020, Budget Act of 2001 (Ch. 106, Stats. 2001). Notwithstanding any other provision of law, the balance as of June 30, 2004, for the Prostate Cancer Treatment Program is reappropriated and is available for expenditure through June 30, 2005.	
(2) Item 4260-001-3020, Budget Act of 2002 (Ch. 379, Stats. 2002). Notwithstanding any other provision of law, the balance as of June 30, 2004, for the Prostate Cancer Treatment Program is reappropriated and is available for expenditure through June 30, 2005.	
4260-495—Reversion, Department of Health Services. As of June 30, 2004, the balances specified below, of the appropriations provided for in the following ci-	

Item	Amount
tations, shall revert to the fund balance from which the appropriation was made:	
0001—General Fund	
(1) \$15,656,299 from Program 10-Public and Environmental Health in Item 4260-001-0001 of the Budget Act of 2000 (Ch. 52, Stats. 2000)	
(2) \$250,000 from Program 10-Public and Environmental Health in Item 4260-001-0001, Budget Act of 2000 (Ch. 52, Stats. 2000), as reappropriated by Item 1260-491 of the Budget Act of 2001 (Ch. 106, Stats. 2001), of the Budget Act of 2002, (Ch. 379, Stats. 2002), and the Budget Act of 2003 (Ch. 157, Stats. 2003)	
(3) \$145,000 in Chapter 841 of the Statutes of 2000	
(4) \$63,000 from Program 10.20.040—Drinking Water in Item 4260-111-0001 of the Budget Act of 2001 (Ch. 106, Stats. 2001)	
(5) \$11,100,000 from Program 10.30.040—Chronic Diseases in Item 4260-111-0001 of the Budget Act of 2001 (Ch. 106, Stats. 2001)	
(6) \$3,000,000 from Program 20.30—County Health Services in Item 4260-111-0001 of the Budget Act of 2001 (Ch. 106, Stats. 2001)	
(7) \$736,000 from Program 20.40—Primary Care and Family Health in Item 4260-111-0001 of the Budget Act of 2001 (Ch. 106, Stats. 2001)	
(8) \$500,000 in Chapter 751 of the Statutes of 2001—Valley Fever Vaccine Research	
3020—Tobacco Settlement Fund	
(1) \$2,648,063 from Program 10.30.40.70—Cancer Detection in Item 4260-001-3020 of the Budget Act of 2001 (Ch. 106, Stats. 2001)	
(2) \$13,675,000 from Program 20-40—Primary Care and Family Health in Item 4260-111-3020 of the Budget Act of 2001 (Ch. 106, Stats. 2001)	
4260-496—Reversion, Department of Health Services. As of June 30, 2004, the balances specified below of the appropriations provided for in the following citations shall revert to the balance in the fund from which the appropriation was made:	
0001—General Fund	
(1) \$2,855,000 from Program 20-Health Care Services in Item 4260-001-0001 of the Budget Act of 2000 (Ch. 52, Stats. 2000)	
(2) \$400,000 from Program 20-Health Care Services in Item 4260-001-0001 of the Budget Act of 2000 (Ch. 52, Stats. 2000) as reappropriated by	

Item	Amount
Item 4260-491 of the Budget Act of 2001 (Ch. 106, Stats. 2001), and the Budget Act of 2002 (Ch. 379, Stats. 2002)	
(3) \$500,000 from Program 20-Health Care Services in Item 4260-001-0001 of the Budget Act of 2001 (Ch. 106, Stats. 2001) as reappropriated by Item 4260-490 of the Budget Act of 2002 (Ch. 379, Stats. 2002)	
(4) \$2,100,000 from Program 20.10.020-Fiscal Intermediary Management in Item 4260-117-0001 of the Budget Act of 2002 (Ch. 379, Stats. 2002)	
3020—Tobacco Settlement Fund	
(5) \$1,482,535 from Program 20-Health Care Services in Item 4260-001-3020 of the Budget Act of 2001 (Ch. 106, Stats. 2001)	
4270-001-0001—For support of California Medical Assistance Commission.....	1,157,000
Schedule:	
(1) 10-California Medical Assistance Commission.....	2,515,000
(2) Reimbursements	-1,247,000
(3) Amount payable from Emergency Services and Supplemental Payments Fund (Item 4270-001-0693).....	-111,000
4270-001-0693—For support, California Medical Assistance Commission, for payment to Item 4270-001-0001, payable from the Emergency Services and Supplemental Payments Fund.....	111,000
Provisions:	
1. To the extent that moneys available in the Emergency Services and Supplemental Payments Fund are less than the amount appropriated in this item, this appropriation shall be limited to that lesser amount.	
2. Notwithstanding any other provision of law, if revenues to the Emergency Services and Supplemental Payments Fund are sufficient to create additional allocation workload, the Director of Finance may authorize expenditures for the California Medical Assistance Commission in excess of the amount appropriated not sooner than 30 days after notification in writing of the necessity therefor is provided to the chairpersons of the fiscal committees and the Chairperson of the Joint Legislative Budget Committee, or not sooner than	

Item	Amount
<p>whatever lesser time the chairperson of the committee, or his or her designee, may in each instance determine.</p> <p>4280-001-0001—For support of Managed Risk Medical Insurance Board</p>	1,565,000
Schedule:	
(1) 10-Major Risk Medical Insurance Program.....	843,000
(2) 20-Access for Infants and Mothers Program.....	874,000
(3) 40-Healthy Families Program	5,168,000
(4) 50-Children’s Health Initiative Matching Fund Program.....	280,000
(5) Reimbursements.....	-154,000
(6) Amount payable from Perinatal Insurance Fund (Item 4280-001-0309).....	-874,000
(7) Amount payable from Major Risk Medical Insurance Fund (Item 4280-001-0313)	-843,000
(8) Amount payable from Federal Trust Fund (Item 4280-001-0890).....	-3,449,000
(9) Amount payable from Federal Trust Fund (Item 4280-003-0890).....	-182,000
(10) Amount payable from Children’s Health Initiative Matching Fund (Item 4280-003-3055)	-98,000
Provisions:	
<p>1. Upon order of the Director of Finance, the State Controller shall transfer such funds as are necessary between this item and Item 4280-103-0890 or Item 4280-103-3055 in order to effectively administer the County Health Initiative Matching Fund Program.</p> <p>2. To provide for the effective use of federal State Children’s Health Insurance Program funds in the County Health Initiative Matching Fund Program, notwithstanding Section 28.00 of this act, this item may be reduced or increased by the Department of Finance not 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 chairperson of the committee, or</p>	

Item	Amount
his or her designee, may in each instance determine. This provision shall not apply to any General Fund increases or reductions.	
4280-001-0309—For support of Managed Risk Medical Insurance Board, for payment to Item 4280-001-0001, payable from the Perinatal Insurance Fund....	874,000
Provisions:	
1. Provision 1 of Item 4280-001-0313 also applies to this item.	
4280-001-0313—For support of Managed Risk Medical Insurance Board, for payment to Item 4280-001-0001, payable from the Major Risk Medical Insurance Fund	843,000
Provisions:	
1. Notwithstanding any other provision of law, the Director of Finance may authorize expenditures for the Managed Risk Medical Insurance Board in excess of the amount appropriated not sooner than 30 days after notification in writing of the necessity therefor is provided to the chairpersons of the fiscal committees and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the chairperson of the committee, or his or her designee, may in each instance determine.	
4280-001-0890—For support of Managed Risk Medical Insurance Board, for payment to Item 4280-001-0001, payable from the Federal Trust Fund, for Healthy Families Program.....	3,449,000
4280-003-0890—For support of Managed Risk Medical Insurance Board, for payment to Item 4280-001-0001, payable from the Federal Trust Fund, for Children’s Health Initiative Matching Fund Program.....	182,000
Provisions:	
1. Provisions 1 and 2 of Item 4280-001-0001 also apply to this item.	
4280-003-3055—For support of Managed Risk Medical Insurance Board, for payment of Item 4280-001-0001, payable from the Children’s Health Initiative Matching Fund, for Children’s Health Initiative Matching Fund Program	98,000
Provisions:	
1. Provisions 1 and 2 of Item 4280-001-0001 also apply to this item.	
4280-017-0001—For support of Managed Risk Medical Insurance Board, for implementation of the Health Insurance Portability and Accountability Act	25,000

Item	Amount
Schedule:	
(1) 10-Major Risk Medical Insurance Program.....	15,000
(2) 20-Access for Infants and Mothers Program.....	15,000
(3) 40-Healthy Families Program	71,000
(4) Amount payable from the Perinatal Insurance Fund (Item 4280-017-0309).....	-15,000
(5) Amount payable from the Major Risk Medical Insurance Fund (Item 4280-017-0313)	-15,000
(6) Amount payable from the Federal Trust Fund (Item 4280-017-0890).	-46,000
4280-017-0309—For support of Managed Risk Medical Insurance Board, for payment to Item 4280-017-0001, payable from the Perinatal Insurance Fund, for implementation of the Health Insurance Portability and Accountability Act	15,000
4280-017-0313—For support of Managed Risk Medical Insurance Board, for payment to Item 4280-017-0001, payable from the Major Risk Medical Insurance Fund, for implementation of the Health Insurance Portability and Accountability Act.....	15,000
4280-017-0890—For support of Managed Risk Medical Insurance Board, for payment to Item 4280-017-0001, payable from the Federal Trust Fund, for implementation of the Health Insurance Portability and Accountability Act	46,000
4280-101-0001—For local assistance, Managed Risk Medical Insurance Board, for the Healthy Families Program	302,260,000
Schedule:	
(1) 20-Access for Infants and Mothers Program.....	18,389,000
(2) 40-Healthy Families Program	803,818,000
(3) Amount payable from the Federal Trust Fund (Item 4280-101-0890)	-519,947,000
Provisions:	
1. Upon order of the Director of Finance, the State Controller shall transfer such funds as are necessary between this item and Item 4280-102-0001 in order to effectively administer the Healthy Families Program.	

Item	Amount
4280-101-0890—For local assistance, Managed Risk Medical Insurance Board, for payment to Item 4280-101-0001, payable from the Federal Trust Fund, for the Healthy Families Program.....	519,947,000
Provisions:	
1. Upon order of the Director of Finance, the State Controller shall transfer such funds, as are necessary between this item and Item 4280-102-0890 in order to effectively administer the Healthy Families Program.	
4280-102-0001—For local assistance, Managed Risk Medical Insurance Board, for the Healthy Families Program administrative contracts.....	23,064,000
Schedule:	
(1) 40-Healthy Families Program	64,816,000
(2) Reimbursements.....	-7,764,000
(3) Amount payable from the Federal Trust Fund (Item 4280-102-0890)	-33,988,000
Provisions:	
1. Upon order of the Director of Finance, the State Controller shall transfer such funds as are necessary between this item and Item 4280-101-0001 in order to effectively administer the Healthy Families Program.	
4280-102-0890—For local assistance, Managed Risk Medical Insurance Board, for payment to Item 4280-102-0001, payable from the Federal Trust Fund, for Healthy Families Program administrative contracts.....	33,988,000
Provisions:	
1. Upon order of the Director of Finance, the State Controller shall transfer such funds, as are necessary between this item and Item 4280-101-0890 in order to effectively administer the Healthy Families Program.	
4280-103-0890—For local assistance, Managed Risk Medical Insurance Board, for payment to Item 4280-103-3055, payable from the Federal Trust Fund, for the Children’s Health Initiative Matching Fund Program	74,824,000
Provisions:	
1. Provisions 1, 2, and 3 of Item 4280-103-3055 also apply to this item.	
4280-103-3055—For local assistance, Managed Risk Medical Insurance Board, for the Children’s Health Initiative Matching Fund Program.....	40,290,000

Item		Amount
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Schedule:

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|---|-------------|
| (1) 50-County Health Initiative Matching Fund Program..... | 115,114,000 |
| (2) Amount payable from the Federal Trust Fund (Item 4280-103-0890).- | 74,824,000 |

Provisions:

1. Upon order of the Director of Finance, the State Controller shall transfer such funds as are necessary between this item and Item 4280-003-0890 or Item 4280-003-3055 in order to effectively administer the County Health Initiative Matching Fund program. The Department of Finance may also authorize the establishment of positions in order to allow the Managed Risk Medical Insurance Board to effectively administer the County Health Initiative Matching Fund program.
2. Funds in this item are subject to the availability, as determined by the Department of Finance, of federal State Children’s Health Insurance Program funds not needed for state-funded health programs, including, but not limited to, the Healthy Families Program and, as funded by the federal State Children’s Health Insurance Program, the Access for Infants and Mothers Program and the Medi-Cal program. To determine the availability of funds, all entities participating in the County Health Initiative Matching Fund program shall submit, on or before August 1 and February 1 of each year, an estimate of expenditures under this item to the Managed Risk Medical Insurance Board. The Managed Risk Medical Insurance Board shall submit, by September 10 and March 1 of each year, an estimate of expenditures under this item to the Department of Finance.
3. To provide for the effective use of federal State Children’s Health Insurance Program funds in the County Health Initiative Matching Fund program, notwithstanding Section 28.00, this item may be reduced or increased by the Department of Finance not 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 chairperson of the committee, or his or her designee, may in each instance determine.

Item	Amount
4280-104-0236—For local assistance, Managed Risk Medical Insurance Board, for the Healthy Families Program Rural Health Demonstration Project	1,047,000
Schedule:	
(1) 40-Healthy Families Program	2,887,000
(2) Amount payable from Federal Trust Fund (Item 4280-104-0890).....	-1,840,000
4280-104-0890—For local assistance, Managed Risk Medical Insurance Board, for payment to Item 4280-104-0236, payable from the Federal Trust Fund, for the Healthy Families Program Rural Health Demonstration Project	1,840,000
4280-111-0232—For transfer by the Controller from the Hospital Services Account, Cigarette and Tobacco Products Surtax Fund to the Perinatal Insurance Fund, for the Access for Infants and Mothers Program	(53,055,000)
4280-111-0233—For transfer by the Controller from the Physician Services Account, Cigarette and Tobacco Products Surtax Fund to the Perinatal Insurance Fund, for the Access for Infants and Mothers Program	(13,837,000)
4280-111-0236—For transfer by the Controller from the Unallocated Account, Cigarette and Tobacco Products Surtax Fund to the Perinatal Insurance Fund, for the Access for Infants and Mothers Program	(27,521,000)
4280-112-0232—For transfer by the Controller from the Hospital Services Account, Cigarette and Tobacco Products Surtax Fund to the Major Risk Medical Insurance Fund, for the Major Risk Medical Insurance Program	(6,393,000)
4280-112-0233—For transfer by the Controller from the Physician Services Account, Cigarette and Tobacco Products Surtax Fund to the Major Risk Medical Insurance Fund, for the Major Risk Medical Insurance Program	(3,607,000)
4300-001-0001—For support of Department of Developmental Services	22,773,000
Schedule:	
(1) 10-Community Services Program...	22,292,000
(2) 20-Developmental Centers Program.....	11,890,000
(3) 35.01-Administration.....	23,236,000
(4) 35.02-Distributed Administration ...	-23,236,000
(5) Reimbursements.....	-9,000,000

Item	Amount
(6) Amount payable from the Developmental Disabilities Program Development Fund (Item 4300-001-0172).....	-296,000
(7) Amount payable from the Federal Trust Fund (Item 4300-001-0890).....	-2,113,000

Provisions:

1. Upon order of the Director of Finance, the State Controller shall transfer such funds as are necessary between this item and Item 4300-003-0001 in order to appropriately align General Fund and Medi-Cal reimbursements from the Department of Health Services with budgeted activities. Within 10 working days after approval of a transfer as authorized by this provision, the Department of Finance shall notify the chairperson of the fiscal committee of each house of the Legislature and the Chairperson of the Joint Legislative Budget Committee of the transfer, including the amount transferred, how the amount was determined, and how the amount will be utilized.
2. The General Fund shall make a loan available to the State Department of Developmental Services not to exceed a cumulative total of \$3,000,000. The loan funds will be transferred to this item as needed to meet cashflow needs due to delays in collecting reimbursements for the Health Care Deposit Fund, and are subject to the repayment provisions in Section 16351 of the Government Code.
3. The State Department of Developmental Services may promulgate regulations specifically for implementing proposals to increase federal funding to the state. These regulations shall be deemed emergency regulations necessary for the immediate preservation of the public peace, health and safety, or general welfare for purposes of subdivision (b) of Section 11346.1 of the Government Code.
4. Notwithstanding Section 26.00 of this act, the Department of Finance may authorize transfer of expenditure authority between Schedules (1) and (2) in order to accurately reflect expenditures in these programs.

Item

Amount

5. On or before October 1, 2004, the Director of Finance shall provide to the chairpersons of the budget committees in each house of the Legislature and the Chairperson of the Joint Legislative Budget Committee an oversight report on the Department of Developmental Services' California Developmental Disabilities Information System Project. The report shall include, but is not limited to, an overall project status report identifying the project's tasks that have been completed and those that are still outstanding, an assessment of the project's ability to meet critical deadlines, and actions the department must take to address project and contract management issues identified by the project's independent oversight consultant and the Department of Finance.
6. Beginning July 1, 2004, the Department of Developmental Services shall provide, on a quarterly basis, to the Chairperson of the Joint Legislative Budget Committee copies of the monthly status and oversight reports submitted to the Department of Finance for the California Developmental Disabilities Information System Project.
7. The State Department of Developmental Services shall provide to the Legislature by January 10, 2005, a summary of actual expenditure data by regional center for the most recent fiscal year, as required by Sections 4631 and 4639.5 of the Welfare and Institutions Code, as well as an analysis of the data that tabulates and compares the following key attributes regarding regional center operations:
 - (a) Personnel expenditures and positions, by key function, segregated by intake and assessment, clinical team, and case management staff.
 - (b) Number of positions and classification levels assigned to Home and Community-based Waiver enrollment and fiscal processing.
 - (c) Operating expenditures.
 - (d) "Best practices" and cost-efficiencies adopted by regional centers regarding administrative procedures and operation expenditures.
8. For purposes of apportioning the 2004–05 unallocated reduction to regional center operations, the State Department of Developmental Services

Item	Amount
<p>shall develop and use a methodology that incorporates an evaluation of the relative performance of each regional center. That evaluation shall include, but is not limited to, the following performance indicators: (a) achievement of Medicaid waiver enrollment targets, (b) compliance with audits, (c) compliance with Individual Program Plan and Individual Family Service Plan requirements, and (d) accuracy of purchase of service expenditure projections.</p>	
<p>4300-001-0172—For support of Department of Developmental Services, for payment to Item 4300-001-0001, payable from the Developmental Disabilities Program Development Fund.....</p>	296,000
<p>Provisions:</p>	
<p>1. Notwithstanding any other provision of law, the Director of Finance may authorize expenditures for the Department of Developmental Services in excess of the amount appropriated no sooner than 30 days after notification in writing is provided to the chairpersons of the fiscal committees and the Chairperson of the Joint Legislative Budget Committee, or no sooner than such lesser time as the chairperson of the committee, or his or her designee, may in each instance determine.</p>	
<p>4300-001-0890—For support of Department of Developmental Services, for payment to Item 4300-001-0001, payable from the Federal Trust Fund</p>	2,113,000
<p>Provisions:</p>	
<p>1. Upon order of the Director of Finance, the State Controller shall transfer such funds as are necessary between this item and Item 4300-101-0890 in order to effectively administer the Early Intervention Program (Part C of the Individuals with Disabilities Education Act).</p>	
<p>4300-003-0001—For support of Department of Developmental Services, for Developmental Centers.....</p>	367,741,000
<p>Schedule:</p>	
<p>(1) 20-Developmental Centers Program.....</p>	690,096,000
<p>(2) Reimbursements</p>	-319,283,000
<p>(3) Amount payable from the California State Lottery Education Fund (Item 4300-003-0814)</p>	-2,259,000
<p>(4) Amount payable from the Federal Trust Fund (Item 4300-003-0890).....</p>	-813,000

Item

Amount

Provisions:

1. The General Fund shall make a loan available to the State Department of Developmental Services not to exceed a cumulative total of \$77,000,000. The loan funds will be transferred to this item as needed to meet cashflow needs due to delays in collecting reimbursements from the Health Care Deposit Fund, and subject to the repayment provisions of Section 16351 of the Government Code.
2. Upon order of the Director of Finance, the State Controller shall transfer such funds as are necessary between this item and Item 4300-001-0001 in order to appropriately align General Fund and Medi-Cal reimbursements from the Department of Health Services with budgeted activities. Within 10 working days after approval of a transfer as authorized by this provision, the Department of Finance shall notify the chairperson of the fiscal committee of each house of the Legislature and the Chairperson of the Joint Legislative Budget Committee of the transfer, including the amount transferred, how the amount was determined, and how the amount will be utilized.
3. Of the amount appropriated in Schedule (1), \$444,000 is provided for payment of energy service contracts as required in connection with issuance of Public Works Board Energy Efficiency Revenue Bonds (State Pool Program), Series 1986 A.
4. Upon order of the Director of Finance, the Controller shall transfer such funds as are necessary between this item and Item 4300-101-0001.
5. The State Department of Developmental Services (DDS) shall notify the chairperson of each fiscal committee and policy committee of each house of the Legislature of specific outcomes resulting from citations and the results of annual surveys conducted by the State Department of Health Services, as well as findings of any other government agency authorized to conduct investigations or surveys of state developmental centers. DDS shall forward the notifications, including a copy of the specific findings, to the chairpersons of the respective committees within 10 working days of its receipt of these findings. DDS also shall forward

Item	Amount
<p>these findings, within three working days of submission, to the appropriate investigating agency. In addition, DDS shall provide notification to the above-mentioned committee chairs, within three working days, of its receipt of information concerning any investigation initiated by the United States Department of Justice and the private non-profit corporation designated by the Governor pursuant to Division 4.7 (commencing with Section 4900) of the Welfare and Institutions Code or concerning any findings or recommendations resulting from any of these investigations.</p>	
<p>4300-003-0814—For support of Department of Developmental Services, for payment to Item 4300-003-0001, payable from the California State Lottery Education Fund</p>	2,259,000
<p>Provisions:</p>	
<p>1. All funds received pursuant to Proposition 37 that are allocable to the Department of Developmental Services pursuant to Section 8880.5 of the Government Code, and that are in excess of the amount appropriated in this item, are hereby appropriated in augmentation of this item. These additional funds may be expended only upon written approval of the Director of Finance.</p>	
<p>4300-003-0890—For support of Department of Developmental Services, for payment to Item 4300-003-0001, payable from the Federal Trust Fund</p>	813,000
<p>Provisions:</p>	
<p>1. Upon order of the Director of Finance, the Controller shall transfer such funds as are necessary between this item and Item 4300-101-0890 in order to effectively administer the Foster Grandparent Program.</p>	
<p>4300-004-0001—For support of Department of Developmental Services (Proposition 98), for Developmental Centers.....</p>	10,672,000
<p>Schedule:</p>	
<p>(1) 20-Developmental Centers Program.....</p>	14,669,000
<p> (a) 20.17-AB 1202 Contracts.....</p>	2,000,000
<p> (b) 20.66-Medi-Cal Eligible Services...</p>	12,669,000
<p>(2) Reimbursements.....</p>	-3,997,000

Item	Amount
Provisions:	
1. Of the amount appropriated in this item, \$3,997,000 is to be used to provide the General Fund match for Medi-Cal Eligible Services.	
4300-017-0001—For support of Department of Developmental Services	250,000
Schedule:	
(1) 20-Developmental Centers Program.....	416,000
(2) Reimbursements.....	-166,000
4300-101-0001—For local assistance, Department of Developmental Services, for Regional Centers	1,817,821,000
Schedule:	
(1) 10.10.010-Operations.....	426,941,000
(2) 10.10.020-Purchase of Services	2,296,341,000
(3) 10.10.060-Early Intervention Programs	20,095,000
(4) Reimbursements	-872,945,000
(5) Amount payable from Developmental Disabilities Program Development Fund (Item 4300-101-0172).....	-1,200,000
(6) Amount payable from Developmental Disabilities Services Account (Item 4300-101-0496)	-300,000
(7) Amount payable from Federal Trust Fund (Item 4300-101-0890).....	-51,111,000
Provisions:	
1. Upon order of the Director of Finance, the Controller shall transfer such funds as are necessary between this item and Item 4300-003-0001.	
2. A loan shall be made available from the General Fund to the State Department of Developmental Services not to exceed a cumulative total of \$160,000,000. The loan funds shall be transferred to this item as needed to meet cashflow needs due to delays in collecting reimbursements from the Health Care Deposit Fund, and are subject to the repayment provisions of Section 16351 of the Government Code.	
3. Upon order of the Director of Finance, the Controller shall transfer funds as are necessary between this item and Item 5160-001-0001 to provide for the transportation costs to and from work activity programs of clients who are receiving vo-	

Item	Amount
<p>ational rehabilitation services through the Vocational Rehabilitation/Work Activity Program (VR/WAP) Transition Program.</p> <p>5. Upon order of the Director of Finance, in order to meet client services needs, the Controller shall transfer the General Fund share of budgeted client costs as necessary between this item and Items 5160-001-0001 and 5160-101-0001 to provide for the transfer of clients between the Department of Developmental Services and the Department of Rehabilitation resulting from program closures. The amount transferred shall be based on the amount budgeted per client by each department for the remainder of the fiscal year.</p>	
<p>4300-101-0172—For local assistance, Department of Developmental Services, for payment to Item 4300-101-0001, payable from the Developmental Disabilities Program Development Fund</p>	1,200,000
<p>Provisions:</p> <p>1. Notwithstanding any other provision of law, the Director of Finance may authorize expenditures for the Department of Developmental Services in excess of the amount appropriated no sooner than 30 days after notification in writing of the chairperson of the fiscal committees and the Chairperson of the Joint Legislative Budget Committee, or no sooner than such lesser time as the chairperson of the committee, or his or her designee, may in each instance determine.</p>	
<p>4300-101-0496—For local assistance, Department of Developmental Services, for payment to Item 4300-101-0001, payable from the Developmental Disabilities Services Account.....</p>	300,000
<p>4300-101-0890—For local assistance, Department of Developmental Services, for Regional Centers, for payment to Item 4300-101-0001, payable from Federal Trust Fund.....</p>	51,111,000
<p>Provisions:</p> <p>1. Upon order of the Director of Finance, the Controller shall transfer such funds as are necessary between this item and Item 4300-001-0890 in order to effectively administer the Early Intervention Program (Part C of the Individuals with Disabilities Education Act).</p> <p>2. Upon order of the Director of Finance, the Controller shall transfer such funds as are necessary</p>	

Item	Amount
<p>between this item and Item 4300-003-0890 in order to effectively administer the Foster Grandparent Program.</p> <p>4300-105-0001—For local assistance, Department of Developmental Services, Special Item for Agnews Transition.....</p>	11,115,000
<p>Provisions:</p> <p>1. Funds appropriated in this item may only be expended to facilitate the development of community-based living options for current residents of Agnews Developmental Center. The Department of Developmental Services, through the California Health and Human Services Agency, shall submit an expenditure plan for these funds to the Joint Legislative Budget Committee. The Joint Legislative Budget Committee shall have 60 days to review the expenditure plan prior to its implementation. The expenditure plan shall be implemented no sooner than 60 days after a comprehensive closure plan for Agnews Developmental Center, developed pursuant to Section 4474.1 of the Welfare and Institutions Code, has been submitted to the Legislature.</p>	
<p>4300-117-0001—For local assistance, Department of Developmental Services</p>	708,000
<p>Schedule:</p> <p>(1) 10.10.010-Regional Centers: Operations.....</p> <p>(2) Reimbursements.....</p>	1,416,000 -708,000
<p>4300-295-0001—For local assistance, Department of Developmental Services, for reimbursement, in accordance with the provisions of Section 6 of Article XIII B of the California Constitution or Section 17561 of the Government Code, of the costs of any new program or increased level of service of an existing program mandated by statute or executive order, for disbursement by the State Controller.....</p>	4,000
<p>Schedule:</p> <p>(1) 98.01.064.480-Judicial Proceedings (Ch. 644, Stats. 1980).....</p> <p>(2) 98.01.069.475-Developmentally Disabled Attorneys Services (Ch. 694, Stats. 1975).....</p> <p>(3) 98.01.125.380-Mentally Retarded Defendants (MRD): Diversion (Ch. 1253, Stats. 1980)</p>	1,000 1,000 1,000

Item	Amount
(4) 98.01.130.480-Conservatorship: Developmentally Disabled Adults (Ch. 1304, Stats. 1980)	1,000
(5) 98.01.135.776-Guardianship/ Conservatorship filings (Ch. 1357, Stats. 1976)	0

Provisions:

1. Except as provided in Provision 2, allocations of funds provided in this item to the appropriate local entities shall be made by the Controller in accordance with the provisions of each statute or executive order that mandates the reimbursement of the costs, and shall be audited to verify the actual amount of the mandated costs in accordance with subdivision (d) of Section 17561 of the Government Code. Audit adjustments to prior year claims may be paid from this item. Funds appropriated in this item may be used to provide reimbursement pursuant to Article 5 (commencing with Section 17615) of Chapter 4 of Part 7 of Division 4 of Title 2 of the Government Code.
2. If any of the scheduled amounts are insufficient to provide full reimbursement of costs, the Controller may, upon notifying the Director of Finance in writing, augment those deficient amounts from the unencumbered balance of any other scheduled amounts therein. No order may be issued pursuant to this provision unless written notification of the necessity therefor is provided to the chairperson of the committee in each house that considers appropriations and the Chairperson of the Joint Legislative Budget Committee or his or her designee.
3. Pursuant to Section 17581 of the Government Code, mandates identified in the appropriation schedule of this item with an appropriation of \$0 and included in the language of this provision are specifically identified by the Legislature for suspension during the 2004–05 fiscal year:
 - (5) Guardianship/Conservatorship filings (Ch. 1257, Stats. 1976)

4300-490—Reappropriation, Department of Developmental Services. Notwithstanding any other provision of law, as of June 30, 2004, the balances of the appropriations provided in the following citations are reappropriated for the purposes specified and shall be available for encumbrance or expenditure until June 30, 2005, unless otherwise stated.

Item	Amount
0001—General Fund	
(1) Item 4300-101-0001 (1) 10.10.010 and (2) 10.10.020, Budget Act of 2003 (Ch. 157, Stats. 2003) for the Life Quality Assessment Inter-agency Agreement.	
4300-495—Reversion, Department of Developmental Services. As of June 30, 2004, the unencumbered amounts specified in the following citations shall revert to the balance of the fund from which the appropriation was made:	
0001—General Fund	
(1) Item 4300-003-0001, Budget Act of 2002 (Ch. 379, Stats. 2002), as reappropriated in Item 4300-490, Budget Act of 2003 (Ch. 157, Stats. 2003)	
(1) 20-Developmental Centers Program.....	5,000,000
4440-001-0001—For support of Department of Mental Health	28,342,000
Schedule:	
(1) 10-Community Services	39,154,000
(2) 20-Long-Term Care Services	12,023,000
(3) 35.01-Departmental Administration.....	16,056,000
(4) 35.02-Distributed Departmental Administration.....	-16,056,000
(5) Reimbursements	-19,231,000
(6) Amount payable from the Traumatic Brain Injury Fund (Item 4440-001-0311).....	-203,000
(7) Amount payable from the Federal Trust Fund (Item 4440-001-0890).	-3,401,000
Provisions:	
1. Upon order of the Director of Finance, and following 30-day notification to the Joint Legislative Budget Committee, the Controller shall transfer between this item and Item 4440-016-0001 those funds that are necessary for direct community services, as well as administrative and ancillary services related to the provision of direct services.	
2. Of the amount appropriated in Schedule (1) the \$382,000 allocated for Preadmission Screening and Resident Review information technology activities shall not be expended until the Department of Finance reviews and approves the Feasibility Study Report for this project.	

Item	Amount
3. Of the funds appropriated in this item, up to \$472,000 shall be used for the sole purpose of funding staff and contract services to identify and evaluate approaches for increasing federal funding and reducing state costs for community mental health services and the state hospital system, such as establishing counties as sole legal entities, a home-based care waiver program, and quality assurance fees. By January 10, 2005, the Department of Mental Health shall provide to the chairpersons of the budget committees in each house of the Legislature and the Chairperson of the Joint Legislative Budget Committee a status report on the consultant’s work and findings and recommendations and a proposed timeline for the implementation of any actions deemed feasible and advisable by the department.	
4440-001-0311—For support of Department of Mental Health, for payment to Item 4440-001-0001, payable from the Traumatic Brain Injury Fund.....	203,000
4440-001-0890—For support of Department of Mental Health, for payment to Item 4440-001-0001, payable from the Federal Trust Fund	3,401,000
Provisions:	
1. Upon order of the Department of Finance, the State Controller shall transfer such funds as are necessary between this item and Item 4440-101-0890.	
4440-003-0001—For support of the Department of Mental Health for rental payments on lease-revenue bonds	10,279,000
Schedule:	
(1) Base Rent and Fees.....	10,137,000
(2) Insurance	142,000
Provisions:	
1. The Controller shall transfer funds appropriated in this item according to a schedule to be provided by the State Public Works Board. The schedule shall be provided on a monthly basis or as otherwise might be needed to ensure debt requirements are met.	
4440-011-0001—For support of the State Hospitals, Department of Mental Health	573,446,000
Schedule:	
(1) 20.10-Long-Term Care Services—	
Lanterman-Petris-Short.....	83,750,000

Item	Amount
(2) 20.20-Long-Term Care Services— Penal Code and Judicially Com- mitted	582,396,000
(3) 20.30-Long-Term Care Services— Other State Hospital Services	53,253,000
(4) Reimbursements	-137,592,000
(5) Amount payable from the Califor- nia State Lottery Education Fund (Item 4440-011-0814)	-1,421,000
(6) Amount payable from the Unallo- cated Account, Cigarette and To- bacco Products Surtax Fund (Item 4440-011-0236).....	-6,940,000

Provisions:

1. Upon order of the Director of Finance, the Controller shall transfer such funds as are necessary between this item and Item 5240-001-0001.
2. Upon order of the Director of Finance, and following 30-day notification to the Joint Legislative Budget Committee, the Controller shall transfer between this item and Item 4440-016-0001 those funds that are necessary for direct community services, as well as administrative and ancillary services related to the provision of direct services.
3. Upon approval of the State Department of Mental Health, a portion of the funds appropriated in Schedule (2) shall be available to reimburse counties for the cost of treatment and legal services to patients in the four State Department of Mental Health State Hospitals, pursuant to Section 4117 of the Welfare and Institutions Code. Expenditures made under this item shall be charged to either the fiscal year in which the claim is received or the fiscal year in which the Controller issues the warrant. Claims filed by local jurisdictions for legal services may be scheduled by the Controller for payment.
4. The reimbursements identified in Schedule (4) of this item shall include amounts received by the State Department of Mental Health as a result of billing for LPS state hospital bed day expenditures attributable to conservatees who are gravely disabled as defined in subparagraph (B) of paragraph (1) of subdivision (h) of Section 5008 of the Welfare and Institutions Code (Murphy Conservatee).

Item	Amount
5. Of the total amount attributable in the 2003–04 fiscal year to patient-generated collections for LPS patients, the Controller shall transfer \$8,000,000 as revenue to the General Fund, and the remainder shall be used to offset county costs for LPS state hospital beds.	
6. Funds appropriated to accommodate projected hospital population levels in excess of those that actually materialize, if any, shall revert to the General Fund. However, the Director of Finance may approve an increase in expenditures that are not related to caseload for the state hospitals through the redirection of funding that is reasonably believed not to be needed for accommodating projected hospital population levels if the approval is made in writing and filed with the Chairperson of the Joint Legislative Budget Committee and the chairperson of each house of the Legislature that considers appropriations not later than 30 days prior to the effective date of the approval, or prior to whatever lesser time the Chairperson of the Joint Legislative Budget Committee, or his or her designee, may in each instance determine. All notifications shall include (a) the reason for the proposed redirection of caseload funding to expenditures that are not related to caseload, (b) the approved amount, and (c) the basis of the director’s determination that the funding is not needed for accommodating projected hospital population levels.	
8. Notwithstanding Section 26.00 of this act, the Department of Finance may authorize transfer of expenditure authority between Schedules (1), (2), and (3) in order to accurately reflect caseload in these programs.	
4440-011-0236—For support of Department of Mental Health, for payment to Item 4440-001-0001, payable from the Unallocated Account, Cigarette and Tobacco Products Surtax Fund.....	6,940,000
4440-011-0814—For support of Department of Mental Health, for payment to Item 4440-011-0001, payable from the California State Lottery Education Fund...	1,421,000
Provisions:	
1. All funds received pursuant to Proposition 37 that are allocable to the Department of Mental Health pursuant to Section 8880.5 of the Government Code, and that are in excess of the amount appro-	

Item	Amount
<p>riated in this item, are appropriated in augmentation of this item. These additional funds may be expended only upon written approval of the Director of Finance.</p>	
<p>4440-012-0001—For support of the State Hospitals (Proposition 98), Department of Mental Health Schedule:</p>	3,400,000
<p>(1) 20.10-Long-Term Care Services— Lanterman-Petris-Short.....</p>	3,400,000
<p>Provisions:</p>	
<p>1. The funds appropriated in this item are available to contract for the provision of education services for mental health patients on state hospital grounds.</p>	
<p>4440-016-0001—For support of Department of Mental Health, for Conditional Release Services Schedule:</p>	21,417,000
<p>(1) 20-Long-Term Care Services</p>	21,417,000
<p>Provisions:</p>	
<p>1. The funds appropriated in this item shall be used to provide community services as provided in Section 4360 of the Welfare and Institutions Code. These funds shall support direct community services, as well as administrative and ancillary services related to the provision of direct services.</p>	
<p>2. Upon order of the Director of Finance, and following 30-day notification to the Joint Legislative Budget Committee, the Controller shall transfer between this item and Items 4440-001-0001 and 4440-011-0001 those funds that are necessary for direct community services, as well as administrative and ancillary services related to the provision of direct services.</p>	
<p>3. The State Department of Mental Health shall provide forensic conditional release services mandated either in Title 15 (commencing with Section 1600) of Part 2 or in Title 15 (commencing with Section 2960) of Article 3 of the Penal Code, through contracts with programs which integrate the supervision and treatment roles and providers selected consistent with Section 1615 of the Penal Code.</p>	
<p>4. Of the funds appropriated in this item, it is intended that no funds shall be available for the payment of treatment services to persons on court</p>	

Item	Amount
visit from state hospitals to the community as designated in subdivision (a) of Section 4117 of the Welfare and Institutions Code.	
4440-017-0001—For support of Department of Mental Health	1,042,000
Schedule:	
(1) 10-Community Services	2,085,000
(2) 20-Long-Term Care Services	0
(3) 35.01-Departmental Administration.....	2,331,000
(4) 35.02-Distributed Departmental Administration	-2,331,000
(5) Reimbursements	-1,043,000
4440-101-0001—For local assistance, Department of Mental Health.....	79,676,000
Schedule:	
(1) 10.25-Community Services—Other Treatment.....	1,439,054,000
(1.5) 10.47-Community Services—Children’s Mental Health Services.	20,000,000
(2) 10.85-Community Services—AIDS.....	1,500,000
(3) 10.97-Community Services—Healthy Families.....	17,083,000
(4) Reimbursements	-1,397,961,000
Provisions:	
1. Augmentations to reimbursements in this item from the Office of Emergency Services for Disaster Relief are exempt from Section 28.00 of this act. The State Department of Mental Health shall provide written notification to the Joint Legislative Budget Committee describing the nature and planned expenditure of these augmentations when the amount received exceeds \$200,000.	
2. It is the intent of the Legislature that local expenditures for mental health services for Medi-Cal eligible individuals serve as the match to draw down maximum federal financial participation to continue the Short-Doyle/Medi-Cal program.	
4440-101-0311—For local assistance, Department of Mental Health, all funds that are transferred into the Traumatic Brain Injury Fund pursuant to subdivision (f) of Section 1464 of the Penal Code.....	1,219,000
Schedule:	
(1) 10.87-Community Services—Traumatic Brain Injury Projects....	1,451,000
(2) Reimbursements.....	-232,000

Item	Amount
4440-101-0890—For local assistance, Department of Mental Health, payable from the Federal Trust Fund	58,404,000
Schedule:	
(1) 10.25-Community Services—Other Treatment	51,772,000
(2) 10.75-Community Services—Homeless Mentally Disabled	6,632,000
Provisions:	
1. The funds appropriated in this item are for assistance to local agencies in the establishment and operation of mental health services, in accordance with Division 5 (commencing with Section 5000) of the Welfare and Institutions Code.	
2. The Department of Mental Health may authorize advance payments of federal grant funds on a monthly basis to the counties for grantees. These advance payments may not exceed one-twelfth of Section 2.00 of the individual grant award for the 2004–05 fiscal year.	
3. Upon order of the Department of Finance, the Controller shall transfer such funds as are necessary between this item and Item 4440-001-0890.	
4440-102-0001—For local assistance, Department of Mental Health (Proposition 98) for early mental health services	5,000,000
4440-103-0001—For local assistance, Department of Mental Health, Program 10.25-Community Services: Other Treatment for Mental Health Managed Care	222,424,000
Provisions:	
1. The allocation of funds appropriated in this item shall be determined based on a methodology developed by the Department of Mental Health in consultation with a statewide organization representing counties. This methodology shall be based on a review of actual and projected expenditures for mental health services for Medi-Cal beneficiaries, by county.	
2. Of the amount appropriated in this item, \$8,000,000 shall be transferred to the Mental Health Managed Care Deposit Fund (Fund 0865).	
3. Upon order of the Director of Finance and agreement between the Department of Mental Health and the Department of Health Services, the Controller shall transfer between this item and Item	

Item	Amount
4260-101-0001 any General Fund amount determined necessary to fully reflect the transfer of responsibility for administration of mental health services pursuant to the implementation of mental health managed care.	
4440-111-0001—For local assistance, Department of Mental Health, for caregiver resource centers serving families of adults with acquired brain injuries ..	11,747,000
4440-295-0001—For local assistance, Department of Mental Health, for reimbursement, in accordance with the provisions of Section 6 of Article XIII B of the California Constitution or of Section 17561 of the Government Code, of the costs of any new program or increased level of service of an existing program mandated by statute or executive order, for disbursement by the State Controller	7,000
Schedule:	
(1) 98.01.049.877-Coroner’s Costs (Ch. 498, Stats. 1977)	1,000
(2) 98.01.081.579-Short-Doyle Case Management (Ch. 815, Stats. 1979).....	0
(3) 98.01.103.678-Mentally Disordered Sex Offender Extended Commitments (Ch. 1036, Stats. 1978).....	1,000
(4) 98.01.111.479-Not Guilty By Reason of Insanity (Ch. 1114, Stats. 1979).....	1,000
(5) 98.01.132.784-Short-Doyle Audits (Ch. 1327, Stats. 1984)	0
(6) 98.01.135.285-Residential Care Services (Ch. 1352, Stats. 1985)...	0
(7) 98.01.174.784-Services to Handicapped Students (Ch. 1747, Stats. 1984).....	1,000
(8) 98.01.043.593-Mentally Disordered Offender’s Extended Commitment Proceedings (Ch. 435, Stats. 1993).....	1,000
(9) 98.01.076.295-Sexually Violent Predators (Chs. 762 and 763, Stats. 1995).....	1,000
(10) 98.01.065.496-Seriously Emotionally Disturbed Pupils (Ch. 654, Stats. 1996).....	1,000

Item		Amount
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Provisions:

1. Except as provided in Provision 2 of this item, allocations of funds provided in this item to the appropriate local entities shall be made by the State Controller in accordance with the provisions of each statute or executive order that mandates the reimbursement of the costs, and shall be audited to verify the actual amount of the mandated costs in accordance with subdivision (d) of Section 17561 of the Government Code. Audit adjustments to prior year claims may be paid from this item. Funds appropriated in this item may be used to provide reimbursement pursuant to Article 5 (commencing with Section 17615) of Chapter 4 of Part 7 of Division 4 of Title 2 of the Government Code.
2. If any of the scheduled amounts are insufficient to provide full reimbursement of costs, the State Controller may, upon notifying the Director of Finance in writing, augment those deficient amounts from the unencumbered balance of any other scheduled amount therein. No order may be issued pursuant to this provision unless written notification of the necessity therefor is provided to the chairperson of the committee in each house which considers appropriations and the Chairperson of the Joint Legislative Budget Committee or his or her designee.
3. Pursuant to Section 17581 of the Government Code, mandates identified in the appropriation schedule of this item with an appropriation of \$0 and included in the language of this provision are specifically identified by the Legislature for suspension during the 2004–05 fiscal year:
 - (2) Short-Doyle Case Management (Ch. 815, Stats. 1979)
 - (5) Short-Doyle Audits (Ch. 1327, Stats. 1984)
 - (6) Residential Care Services (Ch. 1352, Stats. 1985)

4440-301-0001—For capital outlay, Department of Mental Health		429,000
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Schedule:

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|--|--|---------|
| (1) 55.35.295-Metropolitan: Remodel
Satellite Serving Kitchens—
Working drawings | | 259,000 |
| (2) 55.10.205-Minor Project..... | | 170,000 |

Item	Amount
Provisions:	
1. Notwithstanding any other provision of law, the project funded in Schedule (1) shall be considered part of the Metropolitan: Construct New Kitchen and Remodel Satellite Serving Kitchens project funded in Item 4440-301-0660, Schedule (2), of the 2003 Budget Act. The Schedule (1) project is exempt from competitive bid in order to facilitate management of the overall project.	
4440-401—Notwithstanding Section 14666 of the Government Code, the Department of General Services may grant an easement, subject to Department of Finance approval, to the Napa Sanitation District at Napa State Hospital for the installation of reclaimed water piping and a storage tank.	
4440-485—Reappropriation (Proposition 98), Department of Mental Health. The sum of \$5,000,000 is reappropriated from the Proposition 98 Reversion Account for the following purpose:	
0001—General Fund	
(1) \$5,000,000 to the Department of Mental Health for the purpose of funding the Early Mental Health Initiative	
4440-490—Reappropriation, Department of Mental Health. The balance of the appropriation provided in the following citation is reappropriated for the purposes provided for in that appropriation and shall be available for encumbrance and expenditure until June 30, 2005:	
0001—General Fund	
(1) \$250,000 in Item 4440-001-0001, Budget Act of 2003 (Ch. 157, Stats. 2003)	
(1) 10—Community Services	
4440-491—Reappropriation, Department of Mental Health. The balance of the appropriations provided in the following citations are reappropriated for the purposes and subject to the limitations, unless otherwise specified, provided for in those appropriations and shall be available for encumbrance and expenditure as set forth in Provision 1:	
0660—Public Buildings Construction Fund	
(1) Item 4440-301-0660, Budget Act of 2003 (Ch. 157, Stats. 2003)	
(3) 55.45.270—Patton: Renovate Admission Suite and Fire and Life Safety and Environ-	

Item	Amount
<ul style="list-style-type: none"> mental Improvements Phases II and III, EB Building—Preliminary plans, working drawings, and construction. 	
<ul style="list-style-type: none"> (2) Item 4440-301-0660, Budget Act of 2002 (Ch. 379, Stats. 2002), as reappropriated by Item 4440-491, Budget Act of 2003 (Ch. 157, Stats. 2003) (2) 55.35.305-Metropolitan: Construct School Building—Construction 	
Provisions:	
<ul style="list-style-type: none"> 1. Notwithstanding any other provision of law, funds appropriated in Item 4440-301-0660, Schedule (3) of the Budget Act of 2003 (Ch. 157, Stats. 2003), for the Patton: Renovate Admission Suite and Fire and Life Safety and Environmental Improvements Phases II and III, EB Building project may be expended for preliminary plans and working drawings until June 30, 2005, and may be expended for construction until June 30, 2008. 	
4440-496—Reversion, Department of Mental Health. As of June 30, 2004, the balance specified below of the appropriation provided in the following citation shall revert to the balance of the fund from which the appropriation was made:	
0660—Public Buildings Construction Fund	
<ul style="list-style-type: none"> (1) Item 4440-301-0660, Budget Act of 2003 (Ch. 157, Stats. 2003). The amount of \$3,873,000 provided for project 55.35.295-Metropolitan: Construct New Kitchen and Remodel Satellite Serving Kitchens—Preliminary plans, working drawings, and construction. 	
4700-001-0001—For support of Department of Community Services and Development	75,000
Schedule:	
<ul style="list-style-type: none"> (1) 47-Naturalization Services 75,000 	
4700-001-0890—For support of the Department of Community Services and Development, payable from the Federal Trust Fund	9,625,000
Schedule:	
<ul style="list-style-type: none"> (1) 20-Energy Programs..... 8,675,000 (2) 40-Community Services 3,048,000 (3) 50.01-Administration..... 3,300,000 (4) 50.02-Distributed Administration ... -3,300,000 (5) Reimbursements..... -2,098,000 	

Item	Amount
Provisions:	
1. On a federal fiscal year basis, the Department of Community Services and Development shall make the following program allocation for the community services block grant, as a percentage of the total block grant:	
(a) Administration	5 percent
2. Any unexpended federal funds from Item 4700-001-0890, Budget Act of 2003 (Ch. 157, Stats. 2003), shall be in augmentation of Item 4700-001-0890 of this act and not subject to the provisions of Section 28.00.	
4700-101-0001—For local assistance, Department of Community Services and Development	1,425,000
Schedule:	
(1) 47-Naturalization Services	1,425,000
4700-101-0890—For local assistance, Department of Community Services and Development, for assistance to individuals and payments to service providers, payable from the Federal Trust Fund	154,536,000
Schedule:	
(1) 20-Energy Programs	92,404,000
(2) 40-Community Services	62,132,000
Provisions:	
1. On a federal fiscal year basis, the department shall make the following program allocations for the community services block grant as a percentage of the total block grant:	
(a) Discretionary	5 percent
(b) Migrant and seasonal farm workers	10 percent
(c) Native American Indian programs	3.9 percent
(d) Community action agencies and rural community services.....	76.1 percent
All grantees under the community services block grant program are subject to standard state contracting procedures required under the program.	
2. Funds collected by the department from energy contractors as a result of overpayments shall be used for local assistance for energy programs, and funds collected from community service block grant (CSBG) contractors as a result of overpayments shall be used for local assistance for CSBG programs in the 2004–05 fiscal year.	

Item	Amount
3. Funds scheduled in Item 4700-101-0890 may be transferred to Item 4700-001-0890 for the administration of the Low Income Home Energy Assistance Programs, subject to approval of the Department of Finance.	
4. Any unexpended federal funds from Item 4700-101-0890 of the Budget Act of 2003 (Ch. 157, Stats. 2003), shall be in augmentation of Item 4700-101-0890 of this act and are not subject to the provisions of Section 28.00.	
5160-001-0001—For support of Department of Rehabilitation.....	44,098,000
Schedule:	
(1) 10-Vocational Rehabilitation Services.....	321,119,000
(2) 30-Support of Community Facilities	3,923,000
(3) 40.01-Administration.....	24,187,000
(4) 40.02-Distributed Administration ...	-24,187,000
(5) Reimbursements.....	-7,900,000
(6) Amount payable from the Vending Stand Fund (Item 5160-001-0600).....	-3,394,000
(7) Amount payable from the Federal Trust Fund (Item 5160-001-0890)	-269,650,000
Provisions:	
1. Upon order of the Director of Finance, the Controller shall transfer such funds as are necessary between this item and Item 4300-101-0001 to provide for the transportation costs to and from work activity programs of clients who are receiving vocational rehabilitation services through the Vocational Rehabilitation/Work Activity Program (VR/WAP) Transition program.	
2. The department shall maximize its use of certified time as a match for federal vocational rehabilitation funds. To the extent that certified time is available, it shall be used in lieu of the General Fund moneys.	
3. Upon order of the Director of Finance, the Controller shall transfer the General Fund share of budgeted client costs as necessary between this item and Item 4300-101-0001 to provide for the net transfer of clients, resulting from program closures, between the Department of Rehabilitation and the Department of Developmental Services.	

Item	Amount
The amount transferred shall be based on the amount budgeted per client by each department for the remainder of the fiscal year.	
5160-001-0600—For support of Department of Rehabilitation, for payment to Item 5160-001-0001, payable from the Vending Stand Fund	3,394,000
5160-001-0890—For support of Department of Rehabilitation, for payment to Item 5160-001-0001, payable from the Federal Trust Fund	269,650,000
Provisions:	
1. The amount appropriated in this item that is payable from federal Social Security Act funds for vocational rehabilitation services for SSI/SSDI recipients shall be expended only to the extent that funds received exceed the amount appropriated by Item 5160-101-0890 that is payable from the federal Social Security Act funds. It is the intent of the Legislature that first priority of federal Social Security Act funding be given to independent living centers in the amount of federal Social Security Act funding appropriated by Item 5160-101-0890.	
5160-101-0890—For local assistance, Department of Rehabilitation, payable from the Federal Trust Fund... Schedule:	15,736,000
(2) 30-Support of Community Facilities	15,736,000
5160-490—Reappropriation, Department of Rehabilitation. \$1,736,000 of the balance of the appropriations provided in the following citations is reappropriated to pay for expenditures from the 2002–03 fiscal year, and shall be available for encumbrance or expenditure until June 30, 2005:	
0001—General Fund	
(1) Item 5160-001-0001 of the Budget Act of 2003 (Ch. 157, Stats. 2003), \$736,000 from Schedule (1) 10—Vocational Rehabilitation Services	
(2) Item 5160-101-0001 of the Budget Act of 2003 (Ch. 157, Stats. 2003), \$1,000,000 from Schedule (1.5) 20—Habilitation Services	
5170-001-0001—For support of State Independent Living Council	0
Schedule:	
(1) 10-State Council Services.....	452,000
(2) Reimbursements.....	-452,000
5175-001-0001—For support of Department of Child Support Services.....	11,998,000

Item Amount

Schedule:

(1) 10-Child Support Services	36,674,000
(2) Reimbursements	-122,000
(3) Amount payable from the Federal Trust Fund (Item 5175-001- 0890).....	-24,554,000

Provisions:

1. It is the intent of the Legislature to continue to provide funding for those activities necessary for the child support state administrative hearing process, to ensure compliance with statutory timeframes. Notwithstanding any other provision of law, upon request by the Department of Child Support Services, the Department of Finance may augment the amount available for expenditure in this item to pay costs associated with the state administrative hearing process. Concurrent with the Department of Finance's approval, written notification shall be provided to the Chairperson of the Joint Legislative Budget Committee and the chairperson of the committee in each house that considers appropriations.
2. Notwithstanding any other provision of law, upon request by the Department of Child Support Services, the Department of Finance may augment the amount available for expenditure in this item and establish new positions as necessary, if the revenues generated by the Child Support Enhanced Collection Reforms and the associated workload justify such an increase. The augmentation may be effected not sooner than 30 days after notification in writing of the necessity therefor to the chairperson of the committee in each house of the Legislature that considers appropriations and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the chairperson of the joint committee, or his or her designee, may in each instance determine.
3. Notwithstanding any other provision of law, upon request by the Department of Child Support Services, the Director of Finance may augment the amount available for expenditure in this item to pay costs for version 1 implementation of the Child Support Automation Project and for startup costs for the second component, the State Disbursement Unit. The augmentation may be effected not sooner than 30 days after notification in

Item	Amount
<p>writing of necessity therefor to the chairperson of the committee in each house of the Legislature that considers appropriations and the Chairperson of the Joint Legislative Budget Committee, unless the chairperson of the joint committee, or his or her designee, determines that a lesser time period is sufficient. The funds appropriated by this provision shall be consistent with the amount approved by the Department of Finance based on its review and approval of the required Feasibility Study Report, a Special Project Report, or equivalent document.</p>	
<p>5175-001-0890—For support of Department of Child Support Services, for payment to Item 5175-001-0001, payable from the Federal Trust Fund</p>	24,554,000
<p>Provisions:</p>	
<p>1. It is the intent of the Legislature to provide sufficient funding to ensure that Child Support State Administrative Hearings are conducted to meet statutory timeframes. Notwithstanding the 30-day notification requirement set forth in subdivision (d) of Section 28.00 of this act, upon request by the Department of Child Support Services, the Department of Finance may augment expenditure authority in this item to fund increased hearings' costs at the time the request is made. Concurrent with the Department of Finance approval, written notification shall be provided to the Chairperson of the Joint Legislative Budget Committee and the chairperson of the committee in each house that considers appropriations.</p>	
<p>2. Provisions 2 and 3 of Item 5175-001-0001 shall also apply to this item.</p>	
<p>5175-002-0001—For support of Department of Child Support Services.....</p>	23,989,000
<p>Schedule:</p>	
<p>(1) 10-Child Support Services</p>	85,818,000
<p>(2) Amount payable from the Federal Trust Fund (Item 5175-002-0890).....</p>	-61,829,000
<p>Provisions:</p>	
<p>1. Funds in this item shall be used for contracts and interagency agreements in the child support program, unless otherwise authorized by the Department of Finance no sooner than 30 days after providing notification in writing to the chairperson of the fiscal committee of each house of the Legis-</p>	

Item

Amount

- lature and the Chairperson of the Joint Legislative Budget Committee, or no sooner than such lesser time as the chairperson of the committee, or his or her designee, may in each instance determine.
2. Notwithstanding any other provision of law, the Department of Finance may augment this item to reimburse the Judicial Council for the increased costs associated with salary adjustments for child support commissioners and family law facilitators pursuant to Section 70141(e) of the Government Code, in the event such salary adjustments are provided to superior court judges, no sooner than 30 days after notification in writing of the necessity therefor to the chairperson of the committee in each house of the Legislature that considers appropriations and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the Chairperson of the Joint Legislative Budget Committee, or his or her designee, may in each instance determine.
 3. It is the intent of the Legislature to continue to provide funding for those activities necessary for the child support state administrative hearing process to ensure compliance with statutory timeframes. Notwithstanding any other provision of law, upon request by the Department of Child Support Services, the Department of Finance may augment the amount available for expenditure in this item to pay costs associated with the state administrative hearing process. Concurrent with the Department of Finance approval, written notification will be provided to the Chairperson of the Joint Legislative Budget Committee and the chairperson of the committee in each house that considers appropriations.
 4. Notwithstanding any other provision of law, upon request by the Department of Child Support Services, the Department of Finance may augment the amount available for expenditure in this item and establish new positions as necessary, if the revenues generated by the Child Support Enhanced Collection Reforms and the associated workload justify such an increase. The augmentation may be effected not sooner than 30 days after notification in writing of the necessity therefor to the chairperson of the committee in each house of the Legislature that considers appropriations and

Item

Amount

the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the chairperson of the joint committee, or his or her designee, may in each instance determine.

- 5. Notwithstanding any other provision of law, upon request by the Department of Child Support Services, the Director of Finance may augment the amount available for expenditure in this item to pay costs for version 1 implementation of the Child Support Automation Project and for startup costs for the second component, the State Disbursement Unit. The augmentation may be effected not sooner than 30 days after notification in writing of necessity therefor to the chairperson of the committee in each house of the Legislature that considers appropriations and the Chairperson of the Joint Legislative Budget Committee unless the chairperson of the joint committee, or his or her designee, determines that a lesser time period is sufficient. The funds appropriated by this provision shall be consistent with the amount approved by the Director of Finance based on its review and approval of the required Feasibility Study Report, Special Project Report or equivalent document.

5175-002-0890—For support of Department of Child Support Services, for payment to Item 5175-002-0001, payable from the Federal Trust Fund 61,829,000

Provisions:

- 1. Provisions 1, 2, 4, and 5 of Item 5175-002-0001 also apply to this item.
- 2. It is the intent of the Legislature to provide sufficient funding to ensure that Child Support State Administrative Hearings are conducted to meet statutory timeframes. Notwithstanding the 30-day notice requirement set forth in subdivision (d) of Section 28.00 of this act, upon request by the Department of Child Support Services, the Department of Finance may augment expenditure authority in this item to fund increased costs associated with the state administrative hearing process at the time the request is made. Concurrent with the Department of Finance approval, written notification shall be provided to the Chairperson of the Joint Legislative Budget Committee and the chairperson of the committee in each house that considers appropriations.

Item	Amount
5175-101-0001—For local assistance, Department of Child Support Services	252,159,000
Schedule:	
(1) 10-Child Support Services	978,519,000
(a) 10.01-Child Support Administration.....	875,095,000
(b) 10.03-Child Support Automation.....	103,424,000
(2) Reimbursements.....	-321,000
(3) Amount payable from the Federal Trust Fund (Item 5175-101-0890)	-447,175,000
(4) Amount payable from the Child Support Collections Recovery Fund (Item 5175-101-8004)....	-278,864,000

Provisions:

1. No funds appropriated in this item shall be encumbered unless every rule or regulation adopted and every child support services letter or similar instruction issued by the Department of Child Support Services that adds to the cost of the child support program is approved by the Department of Finance as to the availability of funds before it becomes effective. In making the determination as to availability of funds to meet the expenditures of a rule, regulation, or child support services letter that would increase the costs of the program, the Department of Finance shall consider the amount of the proposed increase on an annualized basis, the effect the change would have on the expenditure limitations for the program set forth in this act, the extent to which the rule, regulation, or child support services letter constitutes a deviation from the premises under which the expenditure limitations were prepared, and any additional factors relating to the fiscal integrity of the program or the state's fiscal situation.

Notwithstanding Section 28.00 of this act, the availability of funds contained in this item for child support program rules, regulations, or child support services letters that add to program costs funded from the General Fund in excess of \$500,000 on an annual basis, including those that are the result of federal regulations but excluding those that are (a) specifically required as a result

Item

Amount

- of the enactment of a federal or state law, or (b) included in the appropriation made by this act, shall not be approved by the Department of Finance 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 chairperson of the committee, or his or her designee, may in each instance determine. Funds appropriated in this item are for the child support program consisting of state and federal statutory law, regulations, and court decisions, if funds necessary to carry out those decisions are specifically appropriated in this act.
2. Notwithstanding any other provision of law, a loan not to exceed \$136,000,000 shall be made available from the General Fund, from funds not otherwise appropriated, to cover the federal share of costs of the program 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 or to cover the federal share of child support collections for which the federal funds have been reduced prior to the collections being received from the counties. This loan from the General Fund shall be repaid when the federal share of costs for the program becomes available or when the collections are received from the counties.
 3. The Department of Finance may authorize the establishment of positions and transfer of amounts from this item to Item 5175-001-0001 in order to allow the state to perform the functions or oversee the functions of the local child support agency in the event a county fails to perform that function or is out of compliance with state performance standards.
 4. It is the intent of the Legislature that the California Child Support Automation Project receive the highest commitment and priority of all of the state's child support automation activities.
 5. Of the amount appropriated in this item, \$5,364,000 shall be available for approving funding for county-specific automation projects for the enhancements to existing county child support

Item	Amount
<p>automation systems and for transitioning counties from existing legacy systems to one of the four selected consortia systems. The funds subject to this provision shall be available for expenditure by the Department of Child Support Services until June 30, 2006.</p> <p>6. Of the amount appropriated in this item, the \$5,364,000 allocated for enhancements to the existing county child support automation systems shall not be expended until the Department of Finance approves the Advance Planning Document that is submitted to the federal Administration of Children and Families. In the event that any proposed enhancements are not approved for federal financial participation, the Department of Child Support Services shall submit a revised plan to the Department of Finance detailing how it will re-prioritize projects to remain within existing General Fund expenditure authority.</p> <p>7. Notwithstanding any other provision of law, upon request by the Department of Child Support Services, the Department of Finance may augment the amount available for expenditure in this item to pay costs for version 1 implementation of the Child Support Automation Project and for startup costs for the second component, the State Disbursement Unit. The augmentation may be effected no sooner than 30 days after notification in writing of the necessity therefor to the chairperson of the committee in each house of the Legislature that considers appropriations and the Chairperson of the Joint Legislative Budget Committee, unless the chairperson of the joint committee, or his or her designee, determines that a lesser time period is sufficient. The funds appropriated by this provision shall be consistent with the amount approved by the Department of Finance based on its review and approval of the required Feasibility Study Report, Special Project Report, or equivalent document.</p> <p>8. The Department of Child Support Services, Franchise Tax Board, and Department of Finance shall jointly report during the annual budget subcommittee hearings on the status of the Child Support Automation Project in meeting major milestones in the 2004–05 fiscal year project schedule such</p>	

Item

Amount

as documentation of the software requirements for the design of version 2, award of the State Disbursement Unit contract, and conversion of the remaining 14 counties to the California Assisted Support Enforcement System (CASES).

9. Of the amount appropriated in this item, \$4,000,000 shall be made available to the Los Angeles Local Child Support Agency (LALCSA) for a period of one year. This amount shall be in addition to the LALCSA's initial planning allocation and shall be utilized by LALCSA to improve program performance, including, but not limited to, increasing child support collections and increasing performance in the five federal performance measures above the performance expectations set by the Department of Child Support Services for the 2004–05 fiscal year. As a condition of receiving these funds, LALCSA shall increase child support collections by at least \$15,622,505 above the level estimated by the department for LALCSA for the 2004–05 fiscal year. The estimated General Fund share of these collections would be \$2,152,000. Failure to meet collections standards for the 2004–05 fiscal year will require Los Angeles County to repay funds in proportion to the increased performance level (collection) achieved. If Los Angeles County does not remit the full amount due by that date, any unpaid amount shall be deducted by the Department of Finance from the county allocation for the 2005–06 fiscal year, but the deduction shall in no case exceed \$4,000,000.

5175-101-0890—For local assistance, Department of Child Support Services, for payment to Item 5175-101-0001, payable from the Federal Trust Fund..... 447,175,000

Provisions:

1. Provisions 1 and 5 of Item 5175-101-0001 also apply to this item.
2. The Department of Finance may authorize the establishment of positions and transfer of amounts from this item to Item 5175-001-0890 in order to allow the state to perform the functions or oversee the functions of the local child support agency in the event a county fails to perform that function or is out of compliance with state performance standards.

Item		Amount
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- 3. Of the funds appropriated in this item, the Department of Child Support Services shall reimburse the Department of Social Services quarterly for the federal share of foster care child support collections reported to the federal government.
- 4. Upon request of the Department of Child Support Services, the Department of Finance may increase or decrease the expenditure authority in this item pursuant to the provisions of Section 28.00 of this act to offset any increases or decreases in collections deposited in the Child Support Collections Recovery Fund and appropriated in Item 5175-101-8004.
- 5. Provision 7 of Item 5175-101-0001 shall also apply to this item.

	5175-101-8004—For local assistance, Department of Child Support Services, for payment to Item 5175-101-0001, payable from the Child Support Collections Recovery Fund.....	278,864,000
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Provisions:

- 1. Notwithstanding any other provision of law, the Director of Finance may increase or decrease this appropriation, for the purposes of Section 17702.5 of the Family Code, not sooner than 30 days after notification in writing of the necessity thereof is provided to the Chairperson of the Joint Legislative Budget Committee and the chairperson of the committee in each house of the Legislature that considers appropriations, or not sooner than whatever lesser time as the Chairperson of the Joint Legislative Budget Committee, or his or her designee, may in each instance determine. Adjustments to expenditure authority shall be consistent with those made pursuant to Provision 4 of Item 5175-101-0890.

5175-490—Reappropriation, Department of Child Support Services. The amount of the appropriations specified in the following citations are reappropriated for the purpose of conducting conversions of two consortia automation systems and shall be available for encumbrance or expenditure until June 30, 2005.

0001—General Fund

- (1) Up to \$711,000 in Item 5175-101-0001 of the Budget Act of 2003 (Ch. 157, Stats. 2003)
 - (1) (a) 10.01 Child Support Administration

Item	Amount
0890—Federal Trust Fund	
(1) Up to \$96,000 in Item 5175-101-0890 of the Budget Act of 2003 (Ch. 157, Stats. 2003)	
(1) (a) 10.01 Child Support Administration	
5175-495—Reversion, Department of Child Support Services. As of June 30, 2004, the amount of the appropriation specified in the following citation shall revert to the fund from which the appropriation was made:	
0001—General Fund	
(1) Up to \$715,000 appropriated in Item 5175-101-0001 of the Budget Act of 2003 (Ch. 157, Stats. 2003)	
(1) 10-Child Support Services	
(a) 10.01 Child Support Administration	
5180-001-0001—For support of Department of Social Services	75,205,000
Schedule:	
(1) 16-Welfare Programs.....	65,115,000
(2) 25-Social Services and Licensing...	129,076,000
(3) 35-Disability Evaluation and Other Services.....	231,567,000
(6) 60.01-Administration.....	34,654,000
(7) 60.02-Distributed Administration ...	-34,654,000
(8) Reimbursements.....	-23,290,000
(9) Amount payable from Foster Family Home and Small Family Home Insurance Fund (Item 5180-001-0131).....	-2,695,000
(10) Amount payable from the Federal Trust Fund (Item 5180-001-0890)	-324,568,000
Provisions:	
1. The Department of Finance may authorize the transfer of funds from Schedule (2) of this item to Schedule (1), Program 25.30, of Item 5180-151-0001, Children and Adult Services and Licensing, in order to allow counties to perform the facilities evaluation function.	
2. The Department of Finance may authorize the transfer of funds from Schedule (2) of this item to Schedule (1), Program 25.30, of Item 5180-151-0001, Children and Adult Services and Licensing, in order to allow counties to perform the adoptions program function.	

Item

Amount

3. 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.
4. Notwithstanding paragraph (4) of subdivision (b) of Section 1778 of the Health and Safety Code, the State Department of Social Services may use no more than 20 percent of the fees collected pursuant to Chapter 10 (commencing with Section 1770) of Division 2 of the Health and Safety Code for overhead costs, facilities operation, and indirect department costs.
5. It is the intent of the Legislature to provide sufficient funding to ensure that child support state administrative hearings are conducted to meet statutory timeframes. Notwithstanding the 30-day notice requirement set forth in subdivision (d) of Section 28.00 of this act, upon request of the Department of Child Support Services, the Department of Finance may augment expenditure authority in this item to fund increased costs associated with the state administrative hearing process at the time the request is made. Concurrent with the Department of Finance approval, written notification shall be provided to the Chairperson of the Joint Legislative Budget Committee and the chairperson of the committee in each house that considers appropriations.
6. It is the intent of the Legislature to provide sufficient funding to ensure that electronic benefit transfer state administrative hearings are conducted to meet statutory timeframes. Notwithstanding the 30-day notice requirement set forth in subdivision (d) of Section 28.00 of this act, upon request by the Department of Social Services, the Department of Finance may augment expenditure authority in this item to fund increased costs associated with the state administrative hearing process at the time the request is made. Concurrent with the Department of Finance approval, written notification shall be provided to

Item	Amount
the Chairperson of the Joint Legislative Budget Committee and the chairperson of the committee in each house that considers appropriations.	
7. Expenditures incurred by the Department of Social Services for its implementation of Chapter 669, Statutes of 2002 (SB 646) shall not exceed the amount of revenue collected from charging substitute child care employee registries an administrative fee for participation.	
5180-001-0131—For support of Department of Social Services, for payment to Item 5180-001-0001, for claim payments and the operation and maintenance of the Foster Family Home and Small Family Home Insurance Fund.....	2,695,000
Provisions:	
1. The Department of Finance is authorized to approve expenditures from the unexpended balance available from prior years' appropriations in the Foster Family Home and Small Family Home Insurance Fund during the 2004–05 fiscal year, in those amounts made necessary by increases in either the payment of claims or the costs of operating and maintaining the Foster Family Home and Small Family Home Insurance Fund, which are within or in excess of amounts appropriated in this act for that year.	
If the Department of Finance determines that the estimate of expenditures will exceed the expenditures authorized for the 2004–05 fiscal year, the department shall notify the Legislature. Upon notification the amount of the limitation for the 2004–05 fiscal year shall be increased by the amount of such excess from the unexpended balance available from prior years' appropriations in the Foster Family Home and Small Family Home Insurance Fund.	
5180-001-0270—For support of Department of Social Services, payable from the Technical Assistance Fund	23,951,000
5180-001-0271—For support of Department of Social Services, payable from the Certification Fund	1,139,000
5180-001-0279—For support of Department of Social Services, payable from the Child Health and Safety Fund	840,000
5180-001-0803—For support of Department of Social Services, payable from the State Children's Trust Fund	152,000

Item	Amount
5180-001-0890—For support of Department of Social Services, for payment to Item 5180-001-0001, payable from the Federal Trust Fund	324,568,000
Provisions:	
1. The Department of Finance may authorize the transfer of federal funds from this item to Item 5180-151-0890 in order to allow counties to perform the adoption program functions, and the facilities evaluation function in Community Care Licensing in the Department of Social Services.	
2. Provisions 5 and 6 of Item 5180-001-0001 also apply to this item.	
5180-011-0001—For transfer by the Controller to the Foster Family Home and Small Family Home Insurance Fund	1,729,000
Provisions:	
1. Provision 1 of Item 5180-001-0131 also applies to this item.	
5180-011-0279—For transfer by the Controller from the Child Health and Safety Fund to the State Children’s Trust Fund.....	44,000
5180-011-0890—For transfer by the Controller from the Federal Trust Fund to the Foster Family Home and Small Family Home Insurance Fund	966,000
Provisions:	
1. Provision 1 of Item 5180-001-0131 also applies to this item.	
5180-101-0001—For local assistance, Department of Social Services	2,881,929,000
Schedule:	
(1) 16.30-CalWORKs.....	5,231,280,000
(2) 16.65-Other Assistance Payments	1,522,917,000
(3) Reimbursements	-138,204,000
(4) Amount payable from the Emergency Food Assistance Program Fund (Item 5180-101-0122).....	-505,000
(5) Amount payable from the Employment Training Fund (Item 5180-101-0514).....	-56,432,000
(6) Amount payable from the Federal Trust Fund (Item 5180-101-0890)	-3,677,127,000
Provisions:	
1. No funds appropriated in this item shall be encumbered unless every rule or regulation adopted and every all-county letter issued by the Depart-	

Item

Amount

ment of Social Services that adds to the cost of any program is approved by the Department of Finance as to the availability of funds before it becomes effective. In making the determination as to availability of funds to meet the expenditures of a rule, regulation, or all-county letter that would increase the costs of a program, the Department of Finance shall consider the amount of the proposed increase on an annualized basis, the effect the change would have on the expenditure limitations for the program set forth in this act, the extent to which the rule, regulation, or all-county letter constitutes a deviation from the premises under which the expenditure limitations were prepared, and any additional factors relating to the fiscal integrity of the program or the state's fiscal situation.

Notwithstanding Sections 28.00 and 28.50 of this act, the availability of funds contained in this item for rules, regulations, or all-county letters that add to program costs funded from the General Fund in excess of \$500,000 on an annual basis, including those that are the result of a federal regulation but excluding those that are (a) specifically required as a result of the enactment of a federal or state law, or (b) included in the appropriation made by this act, shall not be approved by the Department of Finance 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 chairperson of the committee, or his or her designee, may in each instance determine.

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 \$500,000,000 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. This loan from the General Fund shall be repaid when the federal share of costs for the program or programs becomes available.

Item

Amount

3. The Department of Finance may authorize the transfer of amounts from this item to Item 5180-001-0001 in order to fund the cost of the administrative hearing process associated with changes in aid payments in the CalWORKs program.
4. The Department of Finance is authorized to approve expenditures in those amounts made necessary by changes in either caseload or payments, or any rule or regulation adopted and any all-county letter issued as a result of the enactment of a federal or state law, the adoption of a federal regulation, or the following of a court decision, during the 2004–05 fiscal year that are within or in excess of amounts appropriated in this act for that year.

If the Department of Finance determines that the estimate of expenditures will exceed the expenditures authorized for this item, the department shall so report to the Legislature. At the time the report is made, the amount of the limitation shall be increased by the amount of the excess unless and until otherwise provided by law.

6. 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.
7. In the event of declared disaster and upon county request, the State Department of Social Services may act in the place of any county and assume direct responsibility for the administration of eligibility and grant determination. Upon recommendation of the Director of Social Services, the Department of Finance may authorize the transfer of funds from Items 5180-101-0001 and 5180-101-0890, to Items 5180-001-0001 and 5180-001-0890, for this purpose.
8. Pursuant to the Electronic Benefit Transfer (EBT) Act (Chapter 3 (commencing with Section 10065) of Part 1 of Division 9 of the Welfare and Institutions Code) and in accordance with the EBT System regulations (Manual of Policies and Pro-

Item	Amount
<p>cedures Section 16-401.15), in the event a county fails to reimburse the EBT contractor for settlement of EBT transactions made against the county's cash assistance programs, the state is required to pay the contractor. The Department of Social Services may use funds from this item to reimburse the EBT contractor for settlement on behalf of the county. The county shall be required to reimburse the Department of Social Services for county's settlement via direct payment or administrative offset.</p> <p>9. Upon certification that funds are available pursuant to Section 6.60 of this act, the Director of Finance shall augment this item by up to \$40,000,000. Any augmentation to this item shall be in lieu of funds appropriated in Item 5180-101-0514 for CalWORKs employment services.</p> <p>10. Upon request of the Department of Social Services, the Director of Finance may increase or decrease the expenditure authority in this item pursuant to the provisions of Section 28.00 of this act to offset any increases or decreases in collections deposited in the Child Support Collections Recovery Fund and appropriated in Item 5180-101-8004.</p> <p>11. It is the intent of the Legislature that General Fund moneys appropriated in this item for the purpose of meeting the federal Temporary Assistance for Needy Families (TANF) maintenance-of-effort (MOE) requirement account for the MOE-countable General Fund moneys appropriated in Item 6110-196-0001. General Fund moneys appropriated in Item 6110-196-0001 for child care should be countable towards the TANF MOE requirement to the extent those funds are expended on behalf of CalWORKs recipients.</p>	
5180-101-0122—For local assistance, Department of Social Services, for payment to Item 5180-101-0001, payable from the Emergency Food Assistance Program Fund.....	505,000
5180-101-0514—For local assistance, Department of Social Services, for payment to Item 5180-101-0001, payable from the Employment Training Fund.....	56,432,000

Item	Amount
Provisions:	
1. The amount appropriated in this item shall be reduced by the amount that Item 5180-101-0001 is augmented pursuant to Provision 9 of that item up to \$40,000,000.	
5180-101-0890—For local assistance, Department of Social Services, for payment to Item 5180-101-0001, payable from the Federal Trust Fund	3,677,127,000
Provisions:	
1. Provisions 1, 4, 7, and 8 of Item 5180-101-0001 also apply to this item.	
2. The Director of Finance may authorize the transfer of amounts from this item to Item 5180-001-0890 in order to fund the cost of the administrative hearing process associated with changes in aid payments in the CalWORKs program.	
3. The State Department of Social Services may transfer up to \$10,000,000 of the funds appropriated in this item for Program 16.30—CalWORKs, from the TANF block grant to the Social Services Block Grant (Title XX) pursuant to authorization in the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193). The Title XX funds shall be pooled with TANF funds appropriated in this item for CalWORKs Child Care, for the purpose of broadening access to federal Child and Adult Care Food Program benefits for low-income children in proprietary child care centers. This transfer shall occur only if the Director of Finance approves the pooling of Title XX funds with CCDF and/or TANF funds.	
5180-101-8004—For local assistance, Department of Social Services, Program 10.02 Foster Care, payable from the Child Support Collections Recovery Fund	13,063,000
Provisions:	
1. Notwithstanding any other provision of law, upon request by the Department of Social Services, the Department of Finance may increase or decrease this appropriation, for the purposes of Section 17702.5 of the Family Code, no sooner than 30 days after notification in writing of the necessity thereof, is provided to the Chairperson of the Joint Legislative Budget Committee and the chairperson of the committee in each house of the Legislature that considers appropriations, unless the	

Item	Amount
Chairperson of the Joint Legislative Budget Committee, or his or her designee, imposes a lesser time. Adjustments to expenditure authority shall be consistent with those made pursuant to Provision 4 of Item 5180-101-0890.	
5180-111-0001—For local assistance, Department of Social Services	4,643,150,000
Schedule:	
(1) 16.70-SSI/SSP	3,485,408,000
(2) 25.15-IHSS.....	3,511,729,000
(3) Reimbursements	-2,353,987,000
Provisions:	
1. Provisions 1 and 4 of Item 5180-101-0001 also apply 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 \$195,000,000 shall be made available from the General Fund from funds not otherwise appropriated, to cover the federal share or reimbursable share, or both, of costs of a program(s) when the federal funds or reimbursements (from the Health Care Deposit Fund or counties) have not been received by this state prior to the usual time for transmitting payments for the federal or reimbursable share of costs for this state. That loan from the General Fund shall be repaid when the federal share of costs for the program(s) becomes available, or in the case of reimbursements, subject to Section 16351 of the Government Code. County reimbursements also shall be subject to Section 16314 of the Government Code, which specifies the rate of interest. The department may offset a county’s share of cost of the In-Home Supportive Services (IHSS) program against local assistance payments made to the county if the county fails to reimburse its share of cost of the IHSS program to the state.	
4. The State Department of Social Services shall provide technical assistance to counties to ensure that they maximize the receipt of federal funds for the In-Home Supportive Services Program, without compromising the quality of the services provided to In-Home Supportive Services recipients.	
5180-141-0001—For local assistance, Department of Social Services	405,478,000

Item		Amount
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Schedule:

- | | |
|---|---------------|
| (1) 16.75-County Administration and Automation Projects | 1,024,616,000 |
| (2) Reimbursements | -38,313,000 |
| (3) Amount payable from the Federal Trust Fund (Item 5180-141-0890) | -580,825,000 |

Provisions:

1. Notwithstanding Chapter 1 (commencing with Section 18000) of Part 6 of Division 9 of the Welfare and Institutions Code, a loan not to exceed \$127,000,000 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. This loan from the General Fund shall be repaid when the federal share of costs for the program or programs becomes available.
2. In the event of declared disaster and upon county request, the State Department of Social Services may act in the place of any county and assume direct responsibility for the administration of eligibility and grant determination. Upon recommendation of the Director of Social Services, the Department of Finance may authorize the transfer of funds from Items 5180-141-0001 and 5180-141-0890, to Items 5180-001-0001 and 5180-001-0890, for this purpose.
3. Provision 1 of Item 5180-101-0001 also applies to this item.
4. Pursuant to public assistance caseload estimates reflected in the annual Governor's Budget, the Department of Finance may approve expenditures in those amounts made necessary by changes in caseload that are in excess of amounts appropriated in this act. If the Department of Finance determines that the estimate of expenditures will exceed the expenditures authorized for this item, the department shall so report to the Legislature. At the time the report is made, the amount of the limitation shall be increased by the amount of the excess unless and until otherwise provided by law.

Item	Amount
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. Section 11.00 of this act shall apply to contracts entered into for the development and implementation of the Consortium IV, Interim Statewide Automated Welfare System, Los Angeles Eligibility, Automated Determination, Evaluation, and Reporting, and Welfare Client Data Systems consortia of the Statewide Automated Welfare System.	
5180-141-0890—For local assistance, Department of Social Services, for payment to Item 5180-141-0001, payable from the Federal Trust Fund.....	580,825,000
Provisions:	
1. Provisions 2, 3, 4, and 6 of Item 5180-141-0001 also apply to this item.	
5180-151-0001—For local assistance, Department of Social Services	768,509,000
Schedule:	
(1) 25.30-Children and Adult Services and Licensing.....	2,049,695,000
(2) 25.35-Special Programs	21,900,000
(3) Reimbursements.....	-85,906,000
(4) Amount payable from the Child Health and Safety Fund (Item 5180-151-0279)	-445,000
(5) Amount payable from the State Children’s Trust Fund (Item 5180-151-0803).....	-6,332,000
(6) Amount payable from the Federal Trust Fund (Item 5180-151-0890)	-1,210,403,000
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 appropri-	

Item

Amount

- ated, 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. 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.
 5. 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 Department of Social Services that it intends to cease performing that function.
 6. Notwithstanding any other provision of law, upon request by the State Department of Social Services, the Department of Finance may redirect funding appropriated in this item for the Child Welfare Services/Case Management System (CWS/CMS) to pay costs associated with the planning and procurement of the migration of the hosting function of the CWS/CMS to the Health and Human Services Data Center, upon approval by the federal government of the state's "Go-Forward" plan for the CWS/CMS project and restoration of Statewide Automated Child Welfare Information System-level federal funding. This redirection shall not be effected sooner than 30 days after notification in writing of the necessity therefor to the chairperson of the committee in each house of the Legislature that considers appropriations and the Chairperson of the Joint Leg-

Item

Amount

islative Budget Committee, or whatever lesser time the chairperson of the committee, or his or her designee, may in each instance determine. The redirection of expenditure authority granted pursuant to this provision shall be consistent with the amount approved by the Department of Finance based on its review of the special project report or equivalent document.

7. It is the intent of the Legislature that the Department of Social Services and the Health and Human Services Data Center provide the highest commitment and priority to completing the Technical Architecture Alternatives Analysis plan and beginning the re-procurement for the Child Welfare Services/Case Management System.
8. On or before April 1, 2005, the Department of Social Services shall submit the Technical Architecture Alternatives plan to the federal government and the Chairperson of the Joint Legislative Budget Committee. The plan shall include, but is not limited to, analyses of both Statewide Automated Child Welfare Information System (SACWIS) and non-SACWIS alternatives, including a cost-benefit analysis of each alternative. Alternatives for technology changes must examine both the technology of the existing system and other technologies that can be readily enhanced and modernized for the expected life of the system, and that employ open architectures and standards. Each alternative examined shall consider a strategy that ensures open and fair competition, including a multi-procurement strategy. The Department of Social Services shall consult with the County Welfare Directors Association during the development of the plan.
9. Of the amount appropriated in this item, \$54,319,000 from the General Fund shall be available to maintain and operate the Child Welfare Services/Case Management System. In the event that the federal government disapproves federal financial participation in any amount, the Department of Social Services shall immediately notify the Department of Finance. Within 45 days of receiving notification of federal government disapprovals exceeding a cumulative total of \$1,000,000, the Department of Finance shall provide the Chairperson of the Joint Legislative Bud-

Item	Amount
get Committee and the chairpersons of the fiscal committees of both houses of the Legislature a proposed revised expenditure plan.	
10. The Department of Social Services shall consult with the counties, children's advocates, and current and former foster youth in the development and implementation of permanency and youth services initiatives.	
11. On or before July 1, 2005, the Department of Social Services, with input from the Continuing Care Advisory Committee established pursuant to Section 1777 of the Health and Safety Code, shall create a panel of residents, providers, and representatives of the department to develop governance standards for applicants and operators of continuing care retirement communities, including, but not limited to, standards that define the authority and representation of independent directors on boards of directors of continuing care retirement communities and on the audit, compensation, and nominating committees of the boards of directors.	
12. Of the amount appropriated in this item, \$91,440,000 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, not 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 (CWS/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	

Item	Amount
<p>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.</p>	
<p>5180-151-0279—For local assistance, Department of Social Services, for payment to Item 5180-151-0001, payable from the Child Health and Safety Fund</p>	445,000
<p>5180-151-0803—For local assistance, Department of Social Services, payable from the State Children’s Trust Fund.....</p>	6,332,000
<p>5180-151-0890—For local assistance, Department of Social Services, for payment to Item 5180-151-0001, payable from the Federal Trust Fund.....</p>	1,210,403,000
<p>Provisions:</p>	
<p>1. Provisions 1, 3, 5, and 12 of Item 5180-151-0001 also apply to this item.</p>	
<p>5180-153-0001—For local assistance, Department of Social Services</p>	1,368,000
<p>5180-402—The Director of Finance is authorized to approve transfers of \$315,203,000 from the federal Temporary Assistance for Needy Families (TANF) block grant to the Child Care and Development Fund (CCDF) administered by the State Department of Education, and the entire amount so transferred shall be used for CalWORKs local assistance Stage II child care. The moneys transferred to the Department of Education shall be used only for direct services to Stage II child care recipients, and the Department of Education shall use other existing funds available for child care quality expenditures to meet the 4 percent quality requirement of federal law associated with CCDF expenditures. Prior to any fund transfers from TANF to CCDF, the Department of Education shall certify that the transfer will not require additional quality expenditures beyond the existing expenditures. Should additional quality expenditures be required as a result of a transfer pursuant to this provision, these transfers shall become TANF funds and shall not be transferred to the CCDF. In the event of a TANF transfer pursuant to this item,</p>	

Item

Amount

the Department of Education shall comply with existing TANF and CalWORKs regulations and reporting requirements.

Provisions:

1. Upon request from the State Department of Education, and upon approval by the Director of Finance, the State Department of Social Services is authorized to transfer up to \$10,000,000 from the federal Temporary Assistance to Needy Families (TANF) block grant to the Social Services Block Grant (Title XX) pursuant to authorization in the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193). These funds shall be provided to the State Department of Education, to be pooled with moneys in the Child Care and Development Fund (CCDF), TANF, or both, for the purpose of broadening access to federal Child and Adult Care Food Program benefits for low-income children in proprietary child care centers. The total amount to be transferred to the State Department of Education from Title XX and TANF combined shall not exceed \$315,203,000. In the event Title XX funds are provided to the State Department of Education pursuant to this provision, the State Department of Education shall comply with all Title XX regulations and reporting requirements. The Department of Finance shall provide written notification to the chairpersons of the fiscal committees of each house of the Legislature and the Chairperson of the Joint Legislative Budget Committee at the time of the transfer.

5180-403—The Director of Finance is authorized to approve transfers not to exceed \$171,091,000 from the federal Temporary Assistance for Needy Families (TANF) block grant to and in augmentation of any program for which TANF funds have been appropriated in this act, only if the request (1) meets all of the conditions set forth in Section 28.00 of this act, or (2) is consistent with Provision 4 of Item 5180-101-0001. Any transfers pursuant to this paragraph shall require the respective legislative notification procedures set forth in Section 28.00 of this act or Provision 4 of Item 5180-101-0001, whichever is applicable.

Item	Amount
Provisions:	
1. Notwithstanding any other provision of law, any funds transferred in accordance with this item may not be transferred into the social services block grant (Title XX of the Federal Social Security Act).	
2. Of the amount available for transfer pursuant to this item, \$8,900,000 shall be available as necessary to fund subsidized child care services for children who are 11 or 12 years of age, consistent with Section 8263.4 of the Education Code.	
5180-491—Reappropriation, Department of Social Services. Notwithstanding any other provision of law, the balance of the funds for the appropriations provided in the following citations is reappropriated for expenditure pursuant to Provision 1 and is available for encumbrance or expenditure until June 30, 2005:	
0001—General Fund	
(1) Item 5180-111-0001, Budget Act of 2003 (Ch. 157, Stats. 2003)	
(2) Item 5180-141-0001, Budget Act of 2003 (Ch. 157, Stats. 2003)	
(3) Item 5180-151-0001, Budget Act of 2003 (Ch. 157, Stats. 2003)	
0890—Federal Trust Fund	
(1) Item 5180-111-0890, Budget Act of 2003 (Ch. 157, Stats. 2003)	
(2) Item 5180-141-0890, Budget Act of 2003 (Ch. 157, Stats. 2003)	
(3) Item 5180-151-0890, Budget Act of 2003 (Ch. 157, Stats. 2003)	
Provisions:	
1. It is the intent of this item to continue funding approved activities for the automation projects that, due to schedule changes, result in unexpended appropriations one year and the need for additional funding in the following year. Therefore, notwithstanding any other provision of law, the balance of the appropriations for these automation projects may, upon approval of the Department of Finance, be reappropriated for transfer to and in augmentation of the corresponding items in this act. The funds reappropriated by this provision shall be made available consistent with the amount approved by the Department of Finance based on an approved special project report or equivalent document not sooner than 30 days after providing	

Item	Amount
notification in writing to the chairperson of the fiscal committee of each house of the Legislature and the Chairperson of the Joint Legislative Budget Committee.	

5180-492—Reappropriation, Department of Social Services. Notwithstanding any other provision of law, the balance of funds for the appropriations provided in the following citations are reappropriated for expenditure pursuant to Provision 1 and are available for encumbrance or expenditure until June 30, 2005: 0001—General Fund

(1) Item 5180-151-0001, Budget Act of 2003 (Ch. 157, Stats. 2003)

0890—Federal Trust Fund

(1) Item 5180-151-0890, Budget Act of 2003 (Ch. 157, Stats. 2003)

0803—State Children’s Trust Fund

(1) Item 5180-151-0803, Budget Act of 2003 (Ch. 157, Stats. 2003)

Provisions:

1. For the 2003–04 fiscal year, no later than 60 days after receipt of fourth quarter claims submitted by the counties, the Department of Social Services, in consultation with the County Welfare Directors Association, shall determine the amount of unspent funds allocated to the Cohort 1 counties for approved Child Welfare Services redesign activities. Thereafter, notwithstanding any other provision of law, the balance of the appropriations for these redesign activities, as approved by the Department of Finance, shall be reappropriated for transfer to and in augmentation of the corresponding items in this act. The funds reappropriated by this provision shall be made available to the Cohort 1 counties that had the unspent funds, consistent with the amount approved by the Department of Finance.

YOUTH AND ADULT CORRECTIONAL AGENCY

5240-001-0001—For support of the Department of Corrections..... 5,311,082,000

Schedule:

(1) 21-Institution Program 3,739,070,000

(2) 22-Health Care Services Program.....942,126,000

Item	Amount
(2.5) 23-Bargaining Unit 6 Provision	
8.05 Section H.....	47,626,000
(2.6) 24-Inmate Education.....	163,495,000
(3) 31-Community Correctional Pro-	
gram.....	543,239,000
(4) 41.01-Administration.....	141,302,000
(5) 41.02-Distributed Administra-	
tion.....	-141,302,000
(6) Reimbursements.....	-68,837,000
(7) Amount payable from the Federal	
Trust Fund (Item 5240-001-0890).	-2,476,000
(8) Amount payable from the Inmate	
Welfare Fund (Item 5240-001-	
0917).....	-53,161,000

Provisions:

1. Funds appropriated to accommodate projected institutional population levels in excess of those that actually materialize, if any, shall revert to the General Fund, except that the Director of Finance may approve an increase in expenditures that are not related to caseload for the Department of Corrections through the redirection of funding that is reasonably believed not to be needed for accommodating projected institutional population levels if the approval is made in writing and filed with the Chairperson of the Joint Legislative Budget Committee and the chairperson of each house of the Legislature that considers appropriations not later than 30 days prior to the effective date of the approval, or prior to whatever lesser time the chairperson of the joint committee, or his or her designee, may in each instance determine. All notifications shall include (a) the reason for the proposed redirection of caseload funding to expenditures that are not related to caseload, (b) the approved amount, and (c) the basis of the director's determination that the funding is not needed for accommodating projected institutional population levels.
2. Funds appropriated to accommodate projected parole population levels in excess of those that actually materialize, if any, shall revert to the General Fund, except that the Director of Finance may approve an increase in expenditures that are not related to caseload for the Department of Corrections through the redirection of funding that is reasonably believed not to be needed for accom-

Item

Amount

modating projected parole population levels if the approval is made in writing and filed with the Chairperson of the Joint Legislative Budget Committee and the chairperson of each house of the Legislature that considers appropriations not later than 30 days prior to the effective date of the approval, or prior to whatever lesser time the chairperson of the joint committee, or his or her designee, may in each instance determine. All notifications shall include (a) the reason for the proposed redirection of caseload funding to expenditures that are not related to caseload, (b) the approved amount, and (c) the basis of the director's determination that the funding is not needed for accommodating projected parole population levels.

3. Any funds recovered as a result of audits of locally operated return-to-custody centers shall revert to the General Fund.
4. When contracting with counties for vacant jail beds for any inmate under the jurisdiction of the Director of the Department of Corrections, the department shall not reimburse counties more than the average amount it costs the state to provide the same services in comparable state institutions. This restriction shall not apply to any existing contract, but shall apply to the extension or renewal of that contract. In addition, the total operational cost of incarcerating state inmates in leased county jail beds (which includes state costs, but is exclusive of one-time and capital outlay costs), shall not exceed the department's average cost for operating comparable institutions.
5. Notwithstanding any other provision of law, but subject to providing 30 days' prior notification to the Joint Legislative Budget Committee, funds appropriated in Schedule (1) or (3), or both, of this item may be transferred to Item 5240-101-0001, Schedule (2), upon order of the Director of Finance, to provide funds for the reimbursement of counties for the cost of holding parole violators in local jail.
6. Notwithstanding any other provision of law, upon approval of the Department of Finance, the Department of Corrections may transfer, between Schedules (1), (2), and (3) of this item, up to 5 percent of the amounts appropriated in these

Item

Amount

- schedules. Any transfer of funds appropriated in Schedules (1), (2), and (3) of this item exceeding 5 percent may occur not sooner than 30 days after notification thereof to the Chairperson of the Joint Legislative Budget Committee and the chairpersons of the fiscal committees of the Legislature.
7. The Department of Corrections shall adjust the number of contracted beds with the Department of Mental Health necessary to house its offenders as part of its ongoing Coleman compliance effort. This revision shall be based on actual and reasonably projected bed usage, and be included in the Governor's Budget population-related request and adjusted in the May Revision as necessary.
 9. No later than February 17, 2005, the Director of Corrections shall submit to the chairpersons and vice chairpersons of the Committee on Budget in both the Assembly and Senate and to the Legislative Analyst's Office, an operating budget for each of the correctional facilities under the control of the Department of Corrections. For every institution, the operating budget shall clearly identify the number of authorized and vacant positions, the estimated personal service costs, the estimated overtime budget, the estimated benefits budget, the estimated operating expense and equipment budget, and a list of all capital outlay projects occurring or projected to occur during the 2004–05 fiscal year.
 10. No later than 60 days following enactment of this act, and subsequently on February 10 and upon release of the May Revision, the Director of Corrections shall submit to the Director of Finance the Post Assignment Schedule for each institution, reconciled to budgeted authority and consistent with approved programs, along with allotments consistent with the reconciled Post Assignment Schedule for each institution.
 11. Notwithstanding any other provision of law, the Director of Finance may authorize expenditures in this item in excess of the amount appropriated for purposes of compliance with the Remedial Plan, adopted in response to the decision in *Valdivia v. Davis* (E.D.Ca. 2002) 206 F.Supp.2d 1068, and for no other purpose. Any authorization shall be based upon data that shall be provided by the Department of Corrections, through

Item

Amount

the Youth and Adult Correctional Agency, and in conjunction with the Board of Prison Terms, on a monthly basis. This information shall include parole serves and hearing related workload, including, at a minimum, the number and average duration of parole serves performed, the number of parolees directed into a sanction program prior to a Probable Cause Hearing, and the average time from parole hold to serve, to Probable Cause Hearing, and to Revocation Hearing. The Director of Finance shall not approve any expenditure unless the approval is made in writing and filed with the Chairperson of the Joint Legislative Budget Committee and the chairperson of the committee in each house that considers appropriations no less than 30 days prior to the effective date of the approval, or prior to whatever lesser time the chairperson of the joint committee, or his or her designee, may determine.

12. Of the amount appropriated in this item, \$650,000 is for establishing performance measures for, and evaluating the effectiveness of, various prison and parole programs. Prior to the expenditure of these funds, the Department of Corrections shall provide the Legislature with a plan specifying how the department will use these funds. This plan shall include, but is not limited to, a list of the programs chosen for performance measures and evaluation, a description of the evaluation methodologies that will be employed for each program listed, the estimated costs to conduct each program evaluation, and a schedule of when reports describing the evaluation results will be completed. This appropriation is limited to two years, unless the Legislature specifically acts to further extend the funding.
13. It is the intent of the Legislature that any funds allocated to the Department of Corrections for the purpose of staffing administrative segregation units that remain unspent at the end of the fiscal year revert to the General Fund. In addition, the Department of Corrections will provide to the Legislature no later than October 1, 2004, a report regarding departmental policies affecting the placement and removal of inmates in administrative segregation units, as well as the cri-

Item	Amount
<p>teria and procedures to be used by department headquarters in determining how administrative segregation funding controlled at headquarters will be distributed to individual prisons.</p>	
5240-001-0890—For support of the Department of Corrections, for payment to Item 5240-001-0001, payable from the Federal Trust Fund	2,476,000
5240-001-0917—For support of the Department of Corrections, for payment to Item 5240-001-0001, payable from the Inmate Welfare Fund	53,161,000
5240-003-0001—For support of the Department of Corrections for rental payments on lease-revenue bonds	266,806,000
Schedule:	
(1) Base Rental and Fees	268,613,000
(2) Insurance	2,144,000
(3) Reimbursements	-3,951,000
Provisions:	
1. The Controller shall transfer funds appropriated in this item according to a schedule to be provided by the State Public Works Board. The schedule shall be provided on a monthly basis or as otherwise might be needed to ensure debt requirements are met.	
5240-101-0001—For local assistance, Department of Corrections	44,714,000
Schedule:	
(1) 21-Institution Program	12,576,000
(2) 31-Community Correctional Program	32,138,000
Provisions:	
1. The amount appropriated in this item is provided for the following purposes:	
(a) To pay the transportation costs of prisoners to and between state prisons, including the return of parole violators to prison and for the conveying of persons under provisions of Division 3 (commencing with Section 3000) of the Welfare and Institutions Code and the Western Interstate Corrections Compact (Section 11190 of the Penal Code), in accordance with Section 26749 of the Government Code. Claims filed by local jurisdictions shall be filed within six months after the end of the month in which those transportation costs are incurred. Expenditures shall be charged to ei-	

Item

Amount

ther the fiscal year in which the claim is received by the Controller or the fiscal year in which the warrant is issued by the Controller.

Claims filed by local jurisdictions directly with the Controller may be paid by the Controller.

- (b) To pay the expenses of returning fugitives from justice from outside the state, in accordance with Sections 1389, 1549, and 1557 of the Penal Code. Claims filed by local jurisdictions shall be filed within six months after the end of the month in which expenses are incurred. Expenditures shall be charged to either the fiscal year in which the claim is received by the Controller or the fiscal year in which the warrant is issued by the Controller, and any restitution received by the state for those expenses shall be credited to the appropriation of the year in which the Controller's receipt is issued.

Claims filed by local jurisdictions directly with the Controller may be paid by the Controller.

- (c) To pay county charges, payable under Sections 4700.1, 4750 to 4755, inclusive, and 6005 of the Penal Code. Claims shall be filed by local jurisdictions within six months after the end of the month in which a service is performed by the coroner, a hearing is held on the return of a writ of habeas corpus, the district attorney declines to prosecute a case referred by the Department of Corrections, a judgment is rendered for a court hearing or trial, an appeal ruling is rendered for the trial judgment, or an activity is performed as permitted by these sections. Expenditures shall be charged to either the fiscal year in which the claim is received by the Controller or the fiscal year in which the warrant is issued by the Controller.

Claims filed by local jurisdictions directly with the Controller may be paid by the Controller.

- (d) To reimburse counties for the cost of detaining state parolees pursuant to Section 4016.5 of the Penal Code. Claims shall be filed by local jurisdictions within six months after the end of the month in which the costs are in-

Item

Amount

curred. Claims filed by local jurisdictions may not include booking fees, may not recover detention costs in excess of \$59 per day, and shall be limited to the detention costs for those days on which parolees are held subject only to a Department of Corrections request pursuant to subdivision (b) of Section 4016.5 of the Penal Code. Expenditures shall be charged to either the fiscal year in which the claim is received by the Department of Corrections or the fiscal year in which the warrant is issued.

2. Notwithstanding any other provision of law, upon 30-day prior notification to the Chairperson of the Joint Legislative Budget Committee, funds appropriated in Schedule (2) of this item may be transferred to Schedule (1) or (3), or both, of Item 5240-001-0001, upon order of the Director of Finance, to provide funds for the reimbursement of counties for the cost of holding parole violators in local jails or for the auditing or monitoring of local assistance costs.

5240-295-0001—For local assistance, Department of Corrections, for reimbursement, in accordance with the provisions of Section 6 of Article XIII B of the California Constitution or Section 17561 of the Government Code, of the costs of any new program or increased level of service of an existing program mandated by statute or executive order, for disbursement by the State Controller

1,000

Schedule:

- (1) 98.01.082.091-Prisoner Parental Rights (Ch. 820, Stats. 1991) 1,000

Provisions:

1. Except as provided in Provision 2 of this item, allocations of funds provided in this item to the appropriate local entities shall be made by the State Controller in accordance with the provisions of each statute or executive order that mandates the reimbursement of the costs, and shall be audited to verify the actual amount of the mandated costs in accordance with subdivision (d) of Section 17561 of the Government Code. Audit adjustments to prior year claims may be paid from this item. Funds appropriated in this item may be used to provide reimbursement pursuant to Article 5

Item	Amount
(commencing with Section 17615) of Chapter 4 of Part 7 of Division 4 of Title 2 of the Government Code.	
2. If any of the scheduled amounts are insufficient to provide full reimbursement of costs, the State Controller may, upon notifying the Director of Finance in writing, augment those deficient amounts from the unencumbered balance of any other scheduled amounts therein. No order may be issued pursuant to this provision unless written notification of the necessity therefor is provided to the chairperson of the committee in each house which considers appropriations and the Chairperson of the Joint Legislative Budget Committee or his or her designee.	
5240-301-0001—For capital outlay, Department of Corrections, payable from the General Fund	18,840,000
Schedule:	
(1) 61.01.001-Statewide: Budget Packages and Advance Planning	1,000,000
(2) 61.01.030-Statewide: Evaluation of Mental Health Facilities—Study ...	1,750,000
(3) 61.06.029-Deuel Vocational Institution, Tracy: Groundwater Treatment/Non-Potable Water Distribution System—Preliminary plans....	570,000
(4) 61.08.036-California Institution for Men, Chino: Cell Security Lighting/RC Central Facility, Phase II—Construction	669,000
(5) 61.08.037-California Institution for Men-East, Chino: Electrified Fence—Construction.....	5,417,000
(6) 61.10.049-California Men’s Colony, San Luis Obispo: Potable Water Distribution System Upgrade—Preliminary plans.....	1,317,000
(7) 61.14.030-Minor Projects	5,000,000
(8) 61.22.004-Chuckawalla Valley State Prison, Blythe: Heating, Ventilation, and Air Conditioning System—Working drawings	1,234,000
(9) 61.33.003-High Desert State Prison/California Correctional Center, Susanville: Arsenic Removal from Potable Water Supply—Preliminary plans.....	845,000

Item	Amount
(10) 61.38.002-California Substance Abuse Treatment Facility and State Prison at Corcoran, Corcoran: 19 Station Hemodialysis Clinic—Working drawings and construction.....	1,038,000
Provisions:	
1. The funds appropriated in Schedule (1) are to be allocated by the Department of Corrections, upon approval by the Department of Finance to develop design and cost information for new projects for which funds have not been previously appropriated, but for which preliminary plan funds, working drawings funds, or working drawings and construction funds are expected to be included in the 2005–06 or 2006–07 Governor’s Budget, and for which cost estimates or preliminary plans can be developed prior to legislative hearings on the 2005–06 and 2006–07 Governor’s Budgets, respectively. These funds may be used for all of the following: budget package development, environmental services, architectural programming, engineering assessments, schematic design, and preliminary plans. The amount appropriated in this item for these purposes is not to be construed as a commitment by the Legislature as to the amount of capital outlay funds it will appropriate in any future year. Before using these funds for preliminary plans, the Department of Corrections shall provide a 20-day notification to the Chairperson of the Joint Legislative Budget Committee, the chairpersons of the respective fiscal committees, and the legislative members of the State Public Works Board, discussing the scope, cost, and future implications of the use of funds for preliminary plans.	
2. As used in this appropriation, studies shall include site studies and suitability reports, environmental studies, master planning, architectural programming and schematics.	
5240-302-0001—For capital outlay, Department of Corrections	5,400,000
Schedule:	
(1) 61.01.900-Statewide Parole Revocation Capital Improvements	5,400,000

Item	Amount
5240-490—Reappropriation, Department of Corrections. The balance of the appropriations provided in the following citations is reappropriated for the purposes and subject to the limitations, unless otherwise specified, provided for in the appropriations:	
0001—General Fund	
(1) Item 5240-301-0001, Budget Act of 2001 (Ch. 106, Stats. 2001), as partially reappropriated by Item 5240-490, Budget Act of 2002 (Ch. 379, Stats. 2002) and Budget Act of 2003 (Ch. 157, Stats. 2003)	
(26) 61.16.021-Sierra Conservation Center, Jamestown: Effluent Disposal Pipeline—Construction	
(2) Item 5240-301-0001, Budget Act of 2002 (Ch. 379, Stats. 2002), as partially reappropriated by Item 5240-490, Budget Act of 2003 (Ch. 157, Stats. 2003)	
(1.5) 61.12.426—California State Prison, San Quentin, San Quentin: Correctional Treatment Center, Phase II—Preliminary plans	
(6) 61.15.027-California Rehabilitation Center, Norco: Potable Water System Improvements—Construction	
0660—Public Buildings Construction Fund	
(1) Item 5240-301-0660, Budget Act of 2003 (Ch. 157, Stats. 2003)	
(1) 61.04.040-California Correctional Institution, Tehachapi: Wastewater Treatment Plant—Construction	
(2) 61.09.036-California Medical Facility, Vacaville: Mental Health Crisis Beds—Preliminary plans, working drawings, and construction	
0747—1988 Prison Construction Bond Fund	
(1) Item 5240-302-0747, Budget Act of 2003 (Ch. 157, Stats. 2003)	
(3) 61.08.037-California Institution for Men-East, Chino: Electrified Fence—Preliminary plans and working drawings	
0751—1990 Prison Construction Bond Fund	
(1) Item 5240-301-0751, Budget Act of 2002 (Ch. 379, Stats. 2002), as reappropriated by Item 5240-490, Budget Act of 2003 (Ch. 157, Stats. 2003)	

Item	Amount
<p>(1) 61.22.004-Chuckawalla Valley State Prison, Blythe: Heating, Ventilation, and Air-conditioning System—Preliminary plans 5240-493—Reappropriation, Department of Corrections.</p> <p>The balances of the appropriations provided in the following citations are reappropriated for the purposes provided for in the appropriations, and shall be available for encumbrance or expenditure as cited below:</p> <p>0001—General Fund</p> <p>(1) Item 5240-001-0001 of the Budget Act of 2001 (Ch. 106, Stats. 2001), Provision 8, as reappropriated in Item 5240-493 of the Budget Act of 2002 (Ch. 379, Stats. 2002) and Item 5240-493 of the Budget Act of 2003 (Ch. 157, Stats. 2003). The balance of the \$7,903,000 appropriated in Schedule (2) of this item is reappropriated only for the purpose of installing and implementing the Madrid Patient Information Management System at Pelican Bay State Prison and shall be available for expenditure until June 30, 2005. Any of the funds not used for these purposes shall revert to the General Fund.</p> <p>(2) Item 5240-001-0001 of the Budget Act of 2003 (Ch. 157, Stats. 2003). \$799,000 is reappropriated only for the purpose of the development of the Statewide Offender Management System and shall be available for expenditure until June 30, 2005. Any of the funds not used for this purpose shall revert to the General Fund.</p> <p>(3) Item 5240-001-0001 of the Budget Act of 2003 (Ch. 157, Stats. 2003). \$450,000 is reappropriated only for the purpose of the development of statewide staffing standards for posted positions and shall be available for expenditure until June 30, 2005. Any of the funds not used for this purpose shall revert to the General Fund.</p> <p>(4) The balance of the allocation from Item 9909-017-0001 of the Budget Act of 2002 (Ch. 379, Stats. 2002), as reappropriated by Item 5240-493 of the Budget Act of 2003 (Ch. 157, Stats. 2003) is reappropriated only for the purpose of implementing the Health Insurance Portability and Accountability Act and shall be available for expenditure until June 30, 2005. Any of the funds not used for this purpose shall revert to the General Fund.</p>	

Item	Amount
(5) Item 5240-001-0917 of the Budget Act of 2003 (Ch. 157, Stats. 2003). \$2,300,000 is reappropriated only for the purpose of the development and implementation of the Inmate Canteen, Restitution, and Banking System and shall be available for expenditure until June 30, 2005. Any of the funds not used for this purpose shall revert to the General Fund.	
5430-001-0001—For support of the Board of Corrections	1,407,000
Schedule:	
(1) 11-Corrections Planning and Programs	627,000
(2) 14-Facilities Standards and Operations	1,304,000
(3) 21-Standards and Training for Corrections.....	2,616,000
(3.1) 31.01-Administration	352,000
(3.2) 31.02-Distributed Administration.	-352,000
(4) Reimbursements.....	-478,000
(5) Amount payable from the Corrections Training Fund (Item 5430-001-0170).....	-2,361,000
(6) Amount payable from Federal Trust Fund (Item 5430-001-0890).....	-301,000
5430-001-0170—For support of the Board of Corrections, for payment to Item 5430-001-0001, payable from Corrections Training Fund	2,361,000
5430-001-0890—For support of the Board of Corrections, for payment to Item 5430-001-0001, payable from Federal Trust Fund	301,000
5430-002-0170—For transfer by the Controller, upon order of the Director of Finance, from the Corrections Training Fund, to the General Fund	(10,257,000)
5430-004-0001—For support of Board of Corrections... Schedule:	507,000
(1) 50-Juvenile Justice Grants Program.....	1,177,000
(2) Reimbursements.....	-10,000
(3) Amount payable from the Federal Trust Fund (Item 5430-004-0890).	-660,000
5430-004-0890—For support of Board of Corrections, for payment to Item 5430-004-0001, payable from the Federal Trust Fund.....	660,000
5430-101-0001—For local assistance, Board of Corrections.....	134,275,000

Item	Amount
Provisions:	
1. Of the funds appropriated in this item, \$134,275,000 shall be available for county probation services. These funds, combined with \$67,138,000 in Temporary Assistance for Needy Families (TANF) funds appropriated in Item 5180-101-0890, shall be allocated in accordance with Sections 18220, 18221, 18222, 18223, 18224, and 18225 of the Welfare and Institutions Code, as these sections existed on the date of enactment of this act. County expenditure of these funds shall be consistent with the uses of funds specified in these sections of the Welfare and Institutions Code. The Board of Corrections shall seek to identify other funding sources, including federal funds, to support these county probation services.	
5430-104-0890—For local assistance, Board of Corrections, payable from the Federal Trust Fund	34,950,000
Schedule:	
(1) 50.30.701-Juvenile Justice and Delinquency Prevention.....	7,065,000
(2) 50.30.703-Community Delinquency Prevention Program.....	5,002,000
(3) 50.30.705-Juvenile Accountability Incentive.....	21,769,000
(4) 50.30.706-Juvenile Justice—Project Challenge.....	1,114,000
Provisions:	
1. Notwithstanding any other provision of law, the Board of Corrections may provide advance payment of up to 25 percent of grant funds awarded to community-based, nonprofit organizations, cities, school districts, counties, and other units of local government that have demonstrated cashflow problems according to the criteria set forth by the Board of Corrections.	
5430-295-0001—For local assistance, Board of Corrections, for reimbursement, in accordance with the provisions of Section 6 of Article XIII B of the California Constitution or Section 17561 of the Government Code, of the costs of any new program or increased level of service of an existing program mandated by statute or executive order, for disbursement by the State Controller	1,000

Item Amount

Schedule:

- (1) 98.01.018.392-Mandates: Domestic Violence Treatment Services (Ch. 183, Stats. 1992)..... 1,000
- (2) 98.01.033.281-Mandates: Victims' Statements—Minors (Ch. 332, Stats. 1981) 0

Provisions:

1. Except as provided in Provision 2 of this item, allocations of funds provided in this item to the appropriate local entities shall be made by the State Controller in accordance with the provisions of each statute or executive order that mandates the reimbursement of the costs, and shall be audited to verify the actual amount of the mandated costs in accordance with subdivision (d) of Section 17561 of the Government Code. Audit adjustments to prior year claims may be paid from this item. Funds appropriated in this item may be used to provide reimbursement pursuant to Article 5 (commencing with Section 17615) of Chapter 4 of Part 7 of Division 4 of Title 2 of the Government Code.
2. If any of the scheduled amounts are insufficient to provide full reimbursement of costs, the State Controller may, upon notifying the Director of Finance in writing, augment those deficient amounts from the unencumbered balance of any other scheduled amounts therein. No order may be issued pursuant to this provision unless written notification of the necessity therefor is provided to the chairperson of the committee in each house which considers appropriations and the Chairperson of the Joint Legislative Budget Committee or his or her designee.
3. Pursuant to Section 17581 of the Government Code, mandates identified in the appropriation schedule of this item with an appropriation of \$0 and included in the language of this provision are specifically identified by the Legislature for suspension during the 2004–05 fiscal year:
 - (2) Victims' Statements—Minors (Ch. 332, Stats. 1981)

Item	Amount
5430-490—Reappropriation—Board of Corrections. The balance of the appropriation provided in the following citation is reappropriated for the purposes provided for in that appropriation and shall be available for encumbrance and expenditure until December 31, 2005: 0890—Federal Funds (1) Item 5430-107-0890, Budget Act of 1999 (Ch. 50, Stats. 1999)	
5440-001-0001—For support of the Board of Prison Terms.....	60,020,000
Schedule:	
(1) 10-Board of Prison Terms	60,101,000
(2) Reimbursements.....	-81,000
Provisions:	
1. Notwithstanding any other provision of law, the Director of Finance may authorize expenditures in this item in excess of the amount appropriated for purposes of compliance with the Remedial Plan adopted in response to the decision in <i>Valdivia v. Davis</i> (E.D.Ca. 2002) 206 F.Supp.2d 1068, and for no other purpose. Any authorization must be based upon data that shall be provided by the Board of Prison Terms, through the Youth and Adult Correctional Agency, and in conjunction with the Department of Corrections. This information shall include applicable attorneys' fees and hearing related workload, including, at a minimum, the number of hearings and associated time necessary to perform the hearings on a monthly basis. The Director of Finance may not approve any expenditure unless the approval is made in writing and filed with the Chairperson of the Joint Legislative Budget Committee and the chairperson of the committee in each house that considers appropriations no later than 30 days prior to the effective date of approval, or prior to whatever lesser time the chairperson of the joint committee, or his or her designee, may determine.	
5460-001-0001—For support of the Department of the Youth Authority.....	286,699,000
Schedule:	
(1) 20-Institutions and Camps	295,258,000
(1.5) 21-Bargaining Unit 6 Provision 8.05 Section H.....	2,510,000
(2) 30-Parole Services.....	37,204,000
(3) 40-Education Services	9,427,000

Item	Amount
(4) 45-Youth Authority Board	3,051,000
(5) 50.01-Administration.....	30,077,000
(6) 50.02-Distributed Administration ...	-29,429,000
(7) Reimbursements.....	-59,499,000
(8) Amount payable from the California State Lottery Education Fund—California Youth Authority (Item 5460-001-0831)	-405,000
(9) Amount payable from the Federal Trust Fund (Item 5460-001-0890).....	-1,495,000
Provisions:	
1. Of the funds appropriated in Schedule (1), \$31,000 is provided for payment of energy service contracts in connection with the issuance of Public Works Board Energy Efficiency Revenue Bonds (State Pool Program), Series 1986A.	
2. Notwithstanding any other provision of law, the Director of Finance may authorize a loan from the General Fund to the Department of the Youth Authority for the purpose of meeting operational cashflow obligations for the 2004–05 fiscal year. The loan shall not exceed the estimated amount of uncollected reimbursements pursuant to Chapter 6 of the Statutes of 1996, for the final quarter of any fiscal year in which the loan is to be provided.	
3. The funds contained in Schedule (1.5) of this item are to provide post coverage for employees when they attend the Off-Post Training Sessions, as specified in Provision 8.05, Section H of the Memorandum of Understanding with the California Correctional Peace Officers’ Association.	
5460-001-0831—For support of the Department of the Youth Authority, for payment to Item 5460-001-0001, payable from the California State Lottery Education Fund—California Youth Authority.....	405,000
Provisions:	
1. All funds received pursuant to Proposition 37 that are allocable to the Department of the Youth Authority pursuant to Section 8880.5 of the Government Code and that are in excess of the amount appropriated in this item, are hereby appropriated in augmentation of this item. Such additional funds may be expended only upon written approval of the Department of Finance.	

Item	Amount
5460-001-0890—For support of the Department of the Youth Authority, for payment to Item 5460-001-0001, payable from the Federal Trust Fund	1,495,000
5460-003-0001—For support of the Department of the Youth Authority, for rental payments on lease-revenue bonds	1,315,000
Schedule:	
(1) Base Rental and Fees	1,466,000
(2) Insurance	15,000
(3) Reimbursement	-166,000
Provisions:	
1. The Controller shall transfer funds appropriated in this item according to a schedule to be provided by the State Public Works Board. The schedule shall be provided on a monthly basis or as otherwise might be needed to ensure debt requirements are met.	
5460-011-0001—For support of the Department of the Youth Authority (Proposition 98)	35,695,000
Schedule:	
(1) 40-Education Services	35,695,000
5460-101-0001—For local assistance, Department of the Youth Authority	2,331,000
Schedule:	
(1) 20-Institutions and Camps	78,000
(2) 30-Parole Services.....	2,253,000
Provisions:	
1. Of the amount appropriated in this item, \$1,481,000 is provided for the following purposes:	
(a) To pay the transportation costs of persons committed to the Department of the Youth Authority to or between its facilities, including the return of parole violators, provided that expenditures made under this item shall be charged to either the fiscal year in which the claim is received by the Controller or the fiscal year in which the warrant is issued by the Controller. However, claims shall be filed by local jurisdictions within six months after the end of the month in which the costs are incurred.	
(b) To reimburse counties, pursuant to Section 1776 of the Welfare and Institutions Code, for the cost of the detention of Youth Authority parolees who are detained on alleged parole	

Item	Amount
violations, provided that expenditures made under this item shall be charged to either the fiscal year in which the claim is received by the Controller or the fiscal year in which the warrant is issued by the Controller. However, claims shall be filed by local jurisdictions within six months after the end of the month in which the costs are incurred.	
5460-295-0001—For local assistance, Department of the Youth Authority, for reimbursements, in accordance with the provisions of Section 6 of Article XIII B of the California Constitution or Section 17561 of the Government Code, of the costs of any new program or increased level of service of an existing program mandated by statute or executive order, for disbursement by the State Controller	0
Schedule:	
(1) 98.01.026.798-Extended Commitment—Youth Authority (Ch. 267, Stats. 1998).....	0
Provisions:	
1. Pursuant to Section 17581 of the Government Code, the mandate identified in the appropriation scheduled by this item with an appropriation of \$0 and included in the language of this provision is specifically identified by the Legislature for suspension during the 2004–05 fiscal year:	
(1) Extended Commitment-Youth Authority (Ch. 267, Stats. 1998)	
5460-301-0001—For capital outlay, Department of the Youth Authority	2,750,000
Schedule:	
(1) 60.01.035-Statewide: Pre-Schematic/Master Planning Budget Packages and Advance Planning...	250,000
(2) 60.90.010-Minor Projects	2,500,000
Provisions:	
1. The funds appropriated in Schedule (1) shall be allocated by the Department of the Youth Authority to develop design and cost information for new projects for which funds have not been previously appropriated, but for which preliminary plans funds, working drawings funds, or working drawing or construction funds are expected to be included in the Governor’s Budget for the 2005–06	

Item	Amount
<p>or 2006–07 fiscal year, and for which cost estimates and/or preliminary plans can be developed prior to legislative hearings on the Governor’s Budget for the 2005–06 or 2006–07 fiscal year. These funds may be used for the following: budget package development, architectural programming, engineering assessments, schematic design, and preliminary plans. The amount appropriated in this item for these purposes shall not be construed as a commitment by the Legislature as to the amount of capital outlay funds it will appropriate in any future year. Before using these funds for preliminary plans, the department shall provide 20 days’ notice to the Chairperson of the Joint Legislative Budget Committee, the chairpersons of the fiscal committees for each house of the Legislature, and the legislative member of the State Public Works Board, discussing the scope, cost, and future implications of the use of funds for preliminary plans.</p>	
<p>2. As used in this appropriation, studies shall include site studies and suitability reports, environmental studies, master planning, architectural programming and schematics.</p>	
<p>5460-301-0747—For capital outlay, Department of the Youth Authority, payable from the 1988 Prison Construction Bond Fund</p>	1,500,000
<p>Schedule:</p>	
<p>(1) 60.56.145.204-Southern Youth Correctional Reception Center and Clinic, Norwalk and Heman G. Stark Youth Correctional Facility, Chino: Housing Unit and Education Modifications—Construction .</p>	1,500,000
<p>Provisions:</p>	
<p>1. Notwithstanding Section 10108 of the Public Contract Code or Section 1760.6 of the Welfare and Institutions Code, or any other provision of law, the Department of the Youth Authority may utilize in-house staff to complete working drawings and ward labor to construct the projects for which funds are appropriated in this item.</p>	
<p>5460-301-0751—For capital outlay, Department of the Youth Authority, payable from the 1990 Prison Construction Bond</p>	500,000

Item	Amount
Schedule:	
(1) 60.56.145-Southern Youth Correctional Reception Center and Clinic, Norwalk, and Heman G. Stark Youth Correctional Facility, Chino: Housing Unit and Education Renovations—Preliminary Plans, Working Drawings, and Construction.....	500,000
Provisions:	
1. Notwithstanding Section 10108 of the Public Contract Code or Section 1760.6 of the Welfare and Institutions Code, or any other provision of law, the Department of the Youth Authority may utilize in-house staff to complete working drawings and ward labor to construct the projects for which funds are appropriated in this item.	
5460-485—Reappropriation (Proposition 98), Department of the Youth Authority. The sum of \$440,000 is reappropriated from the Proposition 98 Reversion Account for the following purpose:	
0001—General Fund	
(1) \$440,000 to the Department of the Youth Authority for the purpose of funding a 2003–04 deficit due to an unexpected increase in student case-load.	
5480-001-0001—For support of Commission on Correctional Peace Officers’ Standards and Training, Program 10	1,077,000

EDUCATION

6110-001-0001—For support of Department of Education	36,443,000
Schedule:	
(1) 10-Instruction.....	53,393,000
(2) 20-Instructional Support	83,520,000
(3) 30-Special Programs.....	47,830,000
(4) 41-Executive Management and Special Services.....	8,341,000
(5) 41.01-State Board of Education	1,456,000
(6) 42.01-Department Management and Special Services.....	29,941,000
(7) 42.02-Distributed Department Management and Special Services.....	-29,941,000
(8) Reimbursements.....	-19,889,000

Item	Amount
(9) Amount payable from Federal Trust	
Fund (Item 6110-001-0890)	-138,208,000
Provisions:	
1. An amount equal to or greater than the amount appropriated in Schedule (5) shall be available for support of the State Board of Education (SBE) and shall be directed to meet the policy priorities of its members. Of the amount appropriated in this schedule, \$130,000 is allocated for statutory oversight of charter schools approved by the SBE. In addition, the State Department of Education is authorized to receive and expend statutory reimbursements of an amount estimated to be \$130,000 for purposes of overseeing SBE-approved charter schools.	
2. Notwithstanding Section 33190 of the Education Code, or any other provision of law, the State Department of Education shall expend no funds to prepare (a) a statewide summary of student performance on school district proficiency assessments or (b) a compilation of information on private schools with five or fewer pupils.	
3. Notwithstanding any other provision of law, of the funds appropriated in this item, \$699,000 shall be used to provide technical assistance and administrative support to remaining Healthy Start grantees. The State Department of Education may use these funds to provide grant funding to the Healthy Start Field Office and regional network leads to provide technical assistance and administrative support to Healthy Start grantees.	
4. Funds appropriated in this item may be expended or encumbered to make one or more payments under a personal services contract of a visiting educator pursuant to Section 19050.8 of the Government Code, a long-term special consultant services contract, or an employment contract between an entity that is not a state agency and a person who is under the direct or daily supervision of a state agency, only if all of the following conditions are met:	
(a) The person providing service under the contract provides full financial disclosure to the Fair Political Practices Commission in accordance with the rules and regulations of the commission.	

Item	Amount
(b) The service provided under the contract does not result in the displacement of any represented civil service employee.	
(c) The rate of compensation for salary and health benefits for the person providing service under the contract does not exceed by more than 10 percent the current rate of compensation for salary and health benefits determined by the Department of Personnel Administration for civil service personnel in a comparable position. The payment of any other compensation or any reimbursement for travel or per diem expenses shall be in accordance with the State Administrative Manual and the rules and regulations of the State Board of Control.	
5. The funds appropriated in this item may not be expended for any REACH program.	
6. The funds appropriated in this item may not be expended for the development or dissemination of program advisories, including, but not limited to, program advisories on the subject areas of reading, writing, and mathematics, unless explicitly authorized by the State Board of Education.	
7. Of the funds appropriated in this item, \$206,000 shall be available as matching funds for the State Department of Rehabilitation to provide coordinated services to disabled pupils. Expenditure of the funds shall be identified in the memorandum of understanding or other written agreement with the Department of Rehabilitation to ensure an appropriate match to federal vocational rehabilitation funds.	
8. (a) Of the funds appropriated in this item, no less than \$3,778,000 is available for support of Child Care Services, including State Pre-school and After School Programs pursuant to Chapters 318, 319, and 320 of the Statutes of 1998 (Program 30.10).	
9. Of the amount appropriated in this item, \$1,627,000 is provided for the sole purpose of funding 13.5 positions and associated operating expenses and equipment costs related to implementation of the Public Schools Accountability Act, as established by Chapter 6.1 (commencing with Section 52050) of Part 28 of the Education Code.	

Item	Amount
10. Of the funds appropriated in this item, \$360,000 is for the purpose of providing the STAR and HSEE programs each with two staff possessing psychometric and test development expertise. Encumbrance of these funds is contingent upon the redirection and reclassification of existing vacant and unfunded positions from elsewhere within the State Department of Education.	
11. Of the funds appropriated in this item, \$400,000 is for the purpose of funding two existing positions for the STAR Program and two existing positions for various other testing programs, including the HSEE, and English Language Development Test. These positions previously were funded through Goals 2000.	
12. Of the funds appropriated in this item, \$150,000 is provided solely for the purpose of funding existing positions from within the State Department of Education, to provide the Curriculum Commission with subject matter specialists.	
13. Of the funds appropriated in this item, \$200,000 is to contract for a review of proposals submitted by school districts that wish to participate in the Mathematics and Reading Professional Development program. The selection of this contractor shall be subject to the approval of the State Board of Education.	
14. Of the funds appropriated in this item, \$858,000 shall be available for costs associated with the administration of the High Priority Schools Grant Program pursuant to Chapter 6.1 (commencing with Section 52055.600) of Part 28 of the Education Code and the Immediate Intervention/Underperforming Schools Program pursuant to Chapter 6.1 (commencing with Section 52053) of Part 28 of the Education Code.	
15. (a) Notwithstanding any other provision of law, any unexpended funds appropriated in any prior Budget Act for the purposes of rewriting the Principal Apportionments System shall remain available for expenditure for the same purposes for which they were appropriated. For expenditures pursuant to this provision, the State Department of Education shall submit an expenditure plan to the Department of Finance and the Joint Legislative Budget Committee. The Department	

Item

Amount

of Finance shall review the plan and either approve or disapprove the plan within 21 days of submission. If the Department of Finance fails to either approve or disapprove the plan within 21 days the plan shall be deemed to be approved. If the Department of Finance disapproves the plan it shall (1) submit a letter to the Joint Legislative Budget Committee that explains the rationale for disapproval and (2) convene a working group consisting of representatives of the Department of Finance, the State Department of Education, and staff of the appropriate policy and fiscal committees of the Legislature. The working group shall jointly develop a revised expenditure plan and submit that plan to the Director of Finance for approval.

- (b) By October 31, 2004, the State Department of Education shall provide to the Department of Finance a file of all charter school ADA and state and local revenue associated with charter school general purpose entitlements as part of the P2 Revenue Limit File. By March 1, 2005, the Department of Education shall provide to the Department of Finance a file of all charter school ADA and state and local revenue associated with charter school general purpose entitlements as part of the P1 Revenue Limit File. It is the expectation that such reports will be provided annually.
16. On or before April 15, 2005, the State Department of Education (SDE) shall provide to the Department of Finance an electronic file that includes complete district- and county-level state appropriations limit information reported to SDE. SDE shall make every effort to ensure that all districts have submitted the necessary information requested on the relevant reporting forms.
17. Of the funds appropriated in this item, \$3,025,000 shall be available for State Department of Education rental costs for the East End Complex and other leased space. In addition to the funds appropriated in this item, \$37,000 shall be available for the Special Deposit Fund for

Item	Amount
State Department of Education rental costs associated with the East End Complex and other leased space. In addition to the funds appropriated in this item for rental costs of the State Department of Education, additional amounts will be allocated through Section 4.60 of this act.	
18. The SDE shall make information available to the Department of Finance, the Legislative Analyst's Office, and the budget committees of each house of the Legislature by October 31, 2004; March 31, 2005; and May 31, 2005, regarding the amount of Proposition 98 savings estimated to be available for reversion by June 30, 2005.	
19. Of the funds appropriated in this item, \$2,000,000 shall be available to SDE for nutrition education and physical activity promotion pursuant to an interagency agreement with the Department of Health Services.	
20. Of the funds appropriated in this item, \$250,000 is provided, on a one-time basis, for the Model Curriculum for Human Rights and Genocide approved by the State Board of Education and for other appropriate genocide-related curriculum and instructional materials as identified by the State Department of Education, to be printed and distributed to K-12 schools, districts, and county offices of education. If applicable, the Department of Education shall ensure that the model curriculum reflects an update of any currently confirmed research regarding the topics covered in the model curriculum.	
21. The report required by Section 60800 of the Education Code is not required to be printed and mailed, but shall be compiled and reported electronically.	
6110-001-0140—For support of the Department of Education, Program 20.10.055-Environmental Education, payable from the California Environmental License Plate Fund	41,000
6110-001-0178—For support of the Department of Education, Program 20.30.003-Instructional Support, for the purpose of conducting schoolbus driver instructor training as provided in Section 40070 of the Education Code, payable from the Driver Training Penalty Assessment Fund	1,055,000

Item	Amount
Provisions:	
1. Of the funds appropriated in this item, \$47,300 shall be available for SDE rental costs associated with the East End Complex and other leased space. In addition to the funds appropriated in this item for rental costs of the State Department of Education, additional amounts will be allocated through Section 4.60 of this act.	
6110-001-0231—For support of Department of Education, Program 20.10.045-Instructional Support, Curriculum Services-Health and Physical Education-Drug Free Schools, payable from the Health Education Account, Cigarette and Tobacco Products Surtax Fund.....	916,000
Provisions:	
1. Of the funds appropriated in this item, \$50,500 shall be available for SDE rental costs associated with the East End Complex and other leased space. In addition to the funds appropriated in this item for rental costs of the State Department of Education, additional amounts will be allocated through Section 4.60 of this act.	
6110-001-0687—For support of Department of Education, for the California State Agency for Donated Food Distribution, Program 30.50-Donated Food Distribution, payable from the Donated Food Revolving Fund.....	5,698,000
Provisions:	
1. Of the funds appropriated in this item, \$329,600 shall be available for SDE rental costs associated with the East End Complex and other leased space. In addition to the funds appropriated in this item for rental costs of the State Department of Education, additional amounts will be allocated through Section 4.60 of this act.	
6110-001-0890—For support of Department of Education, for payment to Item 6110-001-0001, payable from the Federal Trust Fund	138,208,000
Provisions:	
1. The funds appropriated in this item include Federal Vocational Education Act funds for the 2004–05 fiscal year to be transferred to community colleges by means of interagency agreements. These funds shall be used by community colleges for the administration of vocational education programs.	

Item	Amount
2.	Of the funds appropriated in this item, \$96,000 is available to the Advisory Commission on Special Education for the in-state travel expenses of the commissioners and the secretary to the commission.
3.	Of the funds appropriated in this item, \$401,000 is available for programs for homeless youth and adults pursuant to the federal McKinney-Vento Homeless Assistance Act. The department shall consult with the State Departments of Economic Opportunity, Mental Health, Housing and Community Development, and Economic Development in operating this program.
4.	Of the funds appropriated in this item, up to \$364,000 shall be used to provide in-service training for special and regular educators and related persons, including, but not limited to, parents, administrators, and organizations serving severely disabled children. These funds are also to provide up to four positions for this purpose.
5.	Of the funds appropriated in this item, \$318,000 shall be used to provide training in culturally non-biased assessment and specialized language skills to special education teachers.
6.	Of the amount appropriated in this item, \$1,265,000 shall be used for the administration of the federal charter schools program. These activities include monitoring of grant recipients, and increased review and technical assistance support for federal charter school grant applicants and recipients. For the 2004–05 fiscal year, one Education Program Consultant position shall support fiscal issues pertaining to charter schools, including implementation of the funding model pursuant to Chapter 34 of the Statutes of 1998.
7.	(a) Of the funds appropriated in this item, \$12,998,000 is from the Child Care and Development Block Grant Fund and is available for support of Child Care Services.
	(c) Of the amount appropriated in this item, \$530,000 is for 5.5 positions within the Department of Education to address compliance monitoring and overpayments, which may contribute to early detection of fraud. The department shall provide information to the Legislature and Department of Finance each year that quantifies provider-by-provider

Item

Amount

- level data, including instances and amounts of overpayments and fraud, as documented by the department's compliance monitoring efforts for the prior fiscal year.
- (d) As a condition of receiving the resources specified in subparagraph (c) of this provision, it is expected that every alternative payment agency, subject to the audit threshold for the federal single audit as required by P.L. 104-156, as amended, will be audited each year using sufficient sampling of provider records of the following: (i) family fee determinations, (ii) income eligibility, (iii) rate limits, and (iv) basis for hours of care, to determine compliance rates, any instances of misallocation of resources, and the amount of funds expected to be recovered from instances of both potential fraud and overpayment when no intent to defraud is suspected. This information will be contained in a separate report for each provider, with a single statewide summary report annually submitted to the Governor and Legislature at a date to be mutually established between the department and the Governor, but not later than April 15, 2005.
- (e) Of the amount appropriated in this item, not more than \$1,000,000 may be used by the State Department of Education to pay the travel, per diem, and other expenses of county special investigators and district attorneys necessary to consult with the department in the development and implementation of the error rate study required by Article 16.5 (commencing with Section 8385) of Chapter 2 of Part 6 of the Education Code. If the department believes it necessary to use these funds for other services or costs, the department shall first specify those reasons and secure the approval of both the Department of Finance and the Joint Legislative Budget Committee.
8. Of the funds appropriated in this item, \$2,159,000 shall be used for administration of the Enhancing Education Through Technology Grant Program. Of this amount:
- (a) \$580,000 is available only for contracted technical support and evaluation services.

Item

Amount

9. Of the funds appropriated in this item, \$10,140,000 is for dispute resolution services, including mediation and fair hearing services, provided through contract for the Special Education Program.
10. Of the amount provided in this item, \$881,000 is provided for staff for the Special Education Focused Monitoring Pilot Program to be established by the State Department of Education for the purpose of monitoring local educational agency compliance with state and federal laws and regulations governing special education.
11. Of the funds appropriated in this item, \$125,000 shall be allocated for increased travel costs associated with program reviews conducted by the Special Education Division Focused Monitoring and Technical Assistance Units. Expenditure of these funds is subject to Department of Finance approval of an expenditure plan. The expenditure plan shall include the proposed travel costs associated with focused monitoring and technical assistance provided by the State Department of Education. It shall also include the estimated type and number of reviews to be conducted, and shall provide an estimated average cost per type of review. Annual renewal of this funding is subject to Department of Finance approval of an annual focused monitoring final expenditure report. The report shall be submitted on or before September 30, 2004. It shall provide the total number of reviews conducted each fiscal year, the amount of staff and personnel days and hours associated with each category of review, the travel costs associated with the type and number of reviews conducted, and an average cost per type of review.
12. Of the funds appropriated in this item, \$120,000 shall be used solely for the administration of the federal advance placement examination fee payment grant program for low-income pupils.
13. Of the funds appropriated in this item, \$350,000 shall be available for the preparation, analysis, and production of the annual federal accountability reports, as required by the Carl D. Perkins Vocational Technical Education Act.

Item	Amount
14. Of the funds appropriated in this item, \$303,000 shall be allocated by the Department of Education to the California State University, San Bernardino, Center for the Study of Correctional Education, for special education monitoring of and technical assistance for the California Youth Authority pursuant to Chapter 536, Statutes of 2001.	
15. Of the funds appropriated in this item, \$798,000 shall be available for costs associated with the administration of the High Priority Schools Grant Program pursuant to Article 3.5 (commencing with Section 52055.600) of Chapter 6.1 of Part 28 of the Education Code and the Immediate Intervention/Underperforming Schools Program pursuant to Article 3 (commencing with Section 52053) of Chapter 6.1 of Part 28 of the Education Code.	
16. Of the funds appropriated in this item, \$419,000 shall be available pursuant to Chapter 1020, Statutes of 2002 for the development and implementation of corrective action plans and sanctions pursuant to federal law.	
17. Of the funds appropriated in this item, \$1,414,000 is for administration of the Reading First Program. Of this amount, \$873,000 is to redirect 6.0 staff to assist in program administration, and \$500,000 is for the department to contract for annual evaluations of program effectiveness.	
18. Of the amount appropriated in this item, \$500,000 is provided for a biennial evaluation of the Public Schools Accountability Act, as established by Chapter 6.1 (commencing with Section 52050) of Part 28 of the Education Code.	
19. Of the appropriated funds in this item, \$668,000 is for the department to continue developing a comprehensive strategy to address data reporting requirements associated with the No Child Left Behind Act (P.L. 107-110), and to establish 5.0 positions to assist with this task.	
20. Of the funds appropriated in this item, \$600,000 is provided for the second year of a three-year evaluation of the High Priority Schools Grant Program pursuant to Chapter 42, Statutes of 2002.	

Item	Amount
21.	Of the funds appropriated in this item \$4,550,800 shall be available for State Department of Education rental costs for the East End Complex and other leased space. In addition to the funds appropriated in this item for rental costs of the State Department of Education, additional amounts will be allocated through Section 4.60 of this act.
22.	Of the funds appropriated in this item, \$688,000 is to support state operations related to the development of a longitudinal database for the requirements of the No Child Left Behind Act (P.L. 107-110). Of this funding, \$154,000 is for the development of a Request for Proposals and is contingent upon Department of Finance approval following approval of a Feasibility Study Report.
23.	Of the funds appropriated in this item, \$170,000 is provided, on a one-time basis, to support a contract with a community college to establish a distance learning Interpreter Training Program for rural areas.
24.	Of the funds appropriated in this item, \$180,000 is provided, on a one-time basis, to contract with an outside entity to evaluate the 12 Family Empowerment Centers on Disability pursuant to Chapter 690 of the Statutes of 2001.
27.	The State Department of Education shall report by October 1, 2004, to the Legislative Analyst's Office, the Department of Finance, and the fiscal committees of the Legislature the following: (a) the department's planned use of the additional \$1,942,000 in state operations for an additional 10 positions within the department, training of local agency staff, streamlining the local review process and adopting new forms, and temporary staff to conduct required local agency reviews; and (b) a comparison of the department's actual performance and federal performance criteria on all major program functions that are subject to federal compliance reviews. The report shall identify any state and federal program performance deficiencies and include the department's plan for correcting them. The department shall fill the 10 authorized compli-

Item

Amount

- ance positions within 90 days of enactment of this act, or the positions are no longer authorized.
28. Of the amount appropriated in this item, \$1,480,000 in carryover special education funds are available for the state's share of costs in the settlement of *Emma C. v. Delaine Eastin et al.* (N.D.Cal., No. C96-4179TEH). The State Department of Education shall report by January 1, 2005, to the fiscal committees of the Legislature, the Department of Finance, and the Legislative Analyst's Office on the planned use of the additional special education funds provided to Ravenswood Elementary School District pursuant to this settlement. The report shall also provide the department's best estimate of when this supplemental funding will no longer be required by the court. The department shall comply with the requirements of Section 948 of the Government Code in any future requests for funds to satisfy this settlement.
 29. Of the amount appropriated in this item, \$400,000 is available to fund 3.0 positions (2.75 PYs) and associated costs for administering the English Language Development materials program specified in Provision 2 of Item 6110-189-0001. The positions are available on a two-year limited-term basis.
 30. Of the amount appropriated in this item, \$267,000 shall be used to develop an Internet-based electronic clearinghouse system to improve the availability of parental information documents that are translated into languages other than English. The purpose of this system is to improve the availability of these documents at the local level and reduce the local costs of providing these documents by eliminating duplication of effort in translating standard documents. The system shall include an interactive Web portal located on the State Department of Education's Web site, which shall allow local education agencies to submit, locate, and access locally translated parental documents and may include documents that the department is responsible for translating. The funding shall also be used to fund one position to manage the de-

Item	Amount
<p>velopment and maintenance of the Internet clearinghouse site. The addition of an electronic clearinghouse for locally translated documents to the department’s Web site shall not constitute a new information technology project or increase in funding for an information technology project for purposes of project reporting and oversight.</p>	
<p>6110-001-0975—For support of Department of Education, Program 20.40.040-Library and Learning Resources, payable from the California Public School Library Protection Fund.....</p>	16,000
<p>Provisions:</p> <ol style="list-style-type: none"> 1. Subject to the conditions of Article 6 (commencing with Section 18175) of Chapter 2 of Part 6 of the Education Code, and based on increases in the funds deposited in the California Public School Library Protection Fund, the appropriation made in this item may be increased subject to the approval of the Department of Finance. 	
<p>6110-001-6036—For support of Department of Education, Program 20.30-Administrative Services to local educational agencies, payable from the 2002 State School Facilities Fund</p>	2,290,000
<p>Provisions:</p> <ol style="list-style-type: none"> 1. Funds appropriated by this item are for support of the activities of the School Facilities Planning Division and are to be used exclusively for activities related to local school construction, modernization, and schoolsite acquisition. 2. Of the funds appropriated in this item, \$119,000 shall be available for SDE rental costs for the East End Complex and other leased space. In addition to the funds appropriated in this item for rental costs of the State Department of Education, additional amounts will be allocated through Section 4.60 of this act. 	
<p>6110-002-0001—For support of the California Department of Education, for rental payments on lease-revenue bonds</p>	91,000
<p>(1) Base Rental and Fees</p>	90,000
<p>(2) Insurance</p>	1,000
<p>Provisions:</p> <ol style="list-style-type: none"> 1. The Controller shall transfer funds appropriated in this item according to a schedule to be provided by the State Public Works Board. The schedule 	

Item	Amount
<p>shall be provided on a monthly basis or as otherwise might be needed to ensure debt requirements are met.</p>	
<p>6110-003-0001—For support of Department of Education, Program 20.30.020-Instructional Support, Standardized Account Code Structure</p>	1,021,000
<p>Provisions:</p>	
<p>1. The funds appropriated in this item shall be used only for the direct costs to administer the Standardized Account Code Structure program, pursuant to Section 42103.3 of the Education Code, to assist any school district or county office of education in financial distress or bankruptcy, to make available standard fiscal, demographic, and performance data to policy decisionmakers, and for indirect costs for those programs at the rate approved by the United States Department of Education.</p>	
<p>6110-005-0001—For support of Department of Education, as allocated by the Department of Education to the State Special Schools, Program 10.60.040</p>	32,870,000
<p>Schedule:</p>	
<p>(1) 10.60.040-Instruction.....</p>	33,457,000
<p> (a) 10.60.040.001- School for the Blind, Fremont</p>	4,775,000
<p> (b) 10.60.040.002- School for the Deaf, Fremont</p>	15,500,000
<p> (c) 10.60.040.003- School for the Deaf, Riverside.....</p>	13,182,000
<p>(2) Reimbursements.....</p>	-587,000
<p>Provisions:</p>	
<p>1. The State Special Schools for the Deaf in Fremont and Riverside and the State Special School for the Blind in Fremont shall provide a four-week extended session.</p>	
<p>6110-006-0001—For support of Department of Education (Proposition 98), as allocated by the Department of Education to the State Special Schools.....</p>	40,302,000
<p>Schedule:</p>	
<p>(1) 10.60.040-Instruction, State Special Schools.....</p>	45,664,000
<p> (a) 10.60.040.001- School for the Blind, Fremont</p>	5,767,000

Item	Amount
(b) 10.60.040.002- School for the Deaf, Fremont	15,949,000
(c) 10.60.040.003- School for the Deaf, Riverside.....	13,315,000
(d) 10.60.040.007-Di- agnostic Centers ...	10,633,000
(2) Reimbursements	-5,235,000
(3) Amount payable from the Califor- nia State Lottery Education Fund (Item 6110-006-0814)	-127,000

Provisions:

1. On or before September 15 of each year, the superintendent of each State Special School shall report to each school district the number of pupils from that district who are attending a State Special School and the estimated payment due on behalf of the district for those pupils pursuant to Section 59300 of the Education Code. The Controller shall withhold from the State School Fund in the first principal apportionment of that fiscal year the amount due from each school district, as reported to the Controller by the Superintendent of Public Instruction. The amount withheld shall be transferred from the State School Fund to this item. The Superintendent of Public Instruction is authorized to adjust the estimated payments required after the close of the fiscal year by reporting to the Controller the information needed to make the adjustment. The payments by the Controller that result from this yearend adjustment shall be applied to the current year.
2. The State Special Schools for the Deaf in Fremont and Riverside and the State Special School for the Blind in Fremont shall provide a four-week extended session.

6110-006-0814—For support of Department of Education, for payment to Item 6110-006-0001, payable from the California State Lottery Education Fund... 127,000

Provisions:

1. All funds received pursuant to Chapter 12.5 (commencing with Section 8880) of Division 1 of Title 2 of the Government Code that are allocable to the State Special Schools pursuant to Section 8880.5

Item	Amount
<p>of the Government Code, and, that are in excess of the amount appropriated in this item, are hereby appropriated in augmentation of this item.</p> <p>6110-007-0001—For support of Department of Education, Program 20.20.010-Instructional Materials Management and Distribution—Curriculum Frameworks and Instructional Materials.....</p>	117,000
<p>Provisions:</p> <p>1. Funds appropriated by this item shall be used only for direct costs to conduct biennial state adoptions of basic instructional materials pursuant to Section 60200 of the Education Code and for indirect costs for that purpose at the rate approved by the United States Department of Education.</p>	
<p>6110-008-0001—For support of Department of Education, as allocated by the Department of Education to the State Special Schools for student transportation allowances, Program 10.60.040</p>	1,402,000
<p>Provisions:</p> <p>1. Funds appropriated in this item are in lieu of funds that otherwise would be transferred from the General Fund to Section A of the State School Fund in accordance with Sections 14007 and 41301.5 of the Education Code.</p>	
<p>6110-015-0001—For support of Department of Education, Program 20.20.020-Instructional Materials Management and Distribution</p>	438,000
<p>Provisions:</p> <p>1. Funds appropriated in this item are for transfer by the Controller to the State Instructional Materials Fund, for allocation during the 2004–05 fiscal year pursuant to Article 3 (commencing with Section 60240) of Chapter 2 of Part 33 of the Education Code. These funds shall be transferred in amounts claimed by the Department of Education, for direct disbursement by the Department of Education from the State Instructional Materials Fund.</p> <p>2. Of the funds appropriated in this item, \$26,200 shall be available for SDE rental costs associated with the East End Complex and other leased space. In addition to the funds appropriated in this item for rental costs of the State Department of Education, additional amounts will be allocated through Section 4.60 of this act.</p>	

Item	Amount
6110-021-0001—For support, Department of Education, Program 30.20.005-Child Nutrition—Nutrition Education Projects	70,000
6110-101-0231—For local assistance, Department of Education, Program 20.10.045-Instructional Support, Curriculum Services—Health and Physical Education—Drug Free Schools, for county offices of education, payable from the Health Education Account, Cigarette and Tobacco Products Surtax Fund	3,106,000
6110-101-0814—For local assistance, Department of Education, Program 10.10-School Apportionment, for allocation by the Controller in accordance with Section 8880.5 of the Government Code as enacted by the voters in Proposition 37 at the November 1984 general election, payable from the California State Lottery Education Fund.....	806,755,000
Provisions:	
1. All funds received pursuant to Chapter 12.5 of Division 1 of Title 2 of the Government Code that can be allocated to local education agencies that serve pupils in kindergarten or any of grades 1 to 12, inclusive, pursuant to Section 8880.5 of the Government Code, and that are in excess of the amount appropriated in this item, are hereby appropriated in augmentation of this item.	
6110-101-0975—For local assistance, Department of Education, Program 20.40.040-Library and Learning Resources, payable from the California Public School Library Protection Fund	4,574,000
Provisions:	
1. Subject to the conditions of Article 6 (commencing with Section 18175) of Chapter 2 of Part 11 of the Education Code, and based on increases in the funds deposited in the California Public School Library Protection Fund, the appropriation made in this item may be increased subject to the approval of the Department of Finance.	
6110-102-0231—For local assistance, Department of Education, Program 20.10.045-Instructional Support, Curriculum Services Health and Physical Education, Drug Free Schools, for local assistance, payable from the Health Education Account, Cigarette and Tobacco Products Surtax Fund	18,998,000

Item	Amount
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Provisions:

1. On or before June 1, 2005, the State Department of Education shall report to the Joint Legislative Budget Committee on the amount of Tobacco-Use Prevention Education funds that it intends to transfer from the competitive grades 9–12 program to the formula grades 4–8 program in the 2004–05 fiscal year.

6110-102-0890—For local assistance, Department of Education, Program 20.60.038-Learn and Serve America Program, payable from the Federal Trust Fund	2,339,000
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6110-103-0001—For local assistance, Department of Education (Proposition 98), Program 10.10.001.005-School Apportionments for transfer to Section A of the State School Fund, for the purposes of Section 8152 of the Education Code.....	10,456,000
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Provisions:

1. Notwithstanding Section 8154 of the Education Code, or any other provision of law, the funds appropriated in this item shall be the only funds available for and allocated by the Superintendent of Public Instruction for the apprenticeship programs operated by school districts and county offices of education.
2. Notwithstanding Section 8152 of the Education Code, each 60-minute hour of teaching time devoted to each indentured apprentice enrolled in and attending classes of related and supplemental instruction as provided under Section 3074 of the Labor Code shall be reimbursed at the rate of \$4.86 per hour. For purposes of this provision, each hour of teaching time may include up to 10 minutes for passing time and breaks.
3. No school district or county office of education shall use funds allocated pursuant to this item to offer any new or expanded apprenticeship program unless the program has been approved by the Superintendent of Public Instruction.
4. The Superintendent of Public Instruction shall report to the Department of Finance and the Legislature not later than February 1, 2005, on the amount of funds expended for and the hours of related and supplemental instruction offered in the apprenticeship program during the 2003–04 fiscal

Item

Amount

year, with information to be provided by the school district, county office of education, program sponsor, and trade. Expenditure information shall distinguish between direct and indirect costs, including administrative costs funded for the State Department of Education, school districts, and county offices of education. In addition, the report shall identify the hours of related and supplemental instruction proposed for the 2003–04 and 2004–05 fiscal years by the school district, county office of education, program sponsor, and trade. As a condition of receiving funds for the apprenticeship programs, school districts, and county offices of education and regional occupational centers and programs shall report to the Superintendent of Public Instruction the information necessary for the completion of this report.

5. Notwithstanding Article 8 (commencing with Section 8150) of Chapter 1 of Part 6 of the Education Code, or any other provision of law, the total number of hours eligible for state reimbursement in apprenticeship programs operated by school districts and county offices of education shall be limited to an amount equal to the amount of the total appropriation made in this item divided by the hourly rate specified in Provision 2. The Superintendent of Public Instruction shall have the authority to determine which apprenticeship programs and which hours offered in those programs, are eligible for reimbursement.
6. Of the funds appropriated in this item, \$342,000 is provided to increase the number of participants in the program.
7. An additional \$5,933,000 in expenditures for this item has been deferred until the 2005–06 fiscal year.

6110-103-0890—For local assistance, Department of Education, Program 41.20.030.003-Robert C. Byrd Honors Scholarship Program, payable from the Federal Trust Fund.....	5,072,000
6110-104-0001—For local assistance, Department of Education (Proposition 98), Program 10.10.011-School Apportionments—Remedial Supplemental Instruction Programs, for transfer to Section A of the State School Fund, for supplemental instruction and remedial programs	277,862,000

Item		Amount
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Schedule:

- (1) 10.10.011.008-School Apportionments, for Supplemental Instruction, Remedial, Grades 7–12 for the purposes of Section 37252 of the Education Code.....157,438,000
- (2) 10.10.011.009-School Apportionments, for Supplemental Instruction, Retained, or Recommended for Retention, Grades 2–9, for the purposes of Section 37252.2 of the Education Code, as applicable..... 38,020,000
- (3) 10.10.011.010-School Apportionments, for Supplemental Instruction, Low STAR, or at-risk, Grades 2–6, for the purposes of Section 37252.8 of the Education Code, as applicable 14,462,000
- (4) 10.10.011.011-School Apportionments, for Supplemental Instruction, Core Academic, Grades K–12, for the purposes of Section 37253 of the Education Code..... 67,942,000

Provisions:

- 1. Notwithstanding any other provision of law, for the 2004–05 fiscal year the Superintendent of Public Instruction shall allocate a minimum of \$7,573 for supplemental summer school programs in each school district for which the prior fiscal year enrollment was less than 500 and that, in the 2004–05 fiscal year, offers at least 1,500 hours of supplemental summer school instruction. A small school district, as described above, that offers less than 1,500 hours of supplemental summer school offerings shall receive a proportionate reduction in its allocation. For the purpose of this provision, supplemental summer school programs shall be defined as programs authorized under paragraph (2) of subdivision (f) of Section 42239 of the Education Code as it read on July 1, 1999.
- 2. Notwithstanding any other provision of law, for the 2004–05 fiscal year, the maximum reimbursement to a school district or charter school for the program listed in Schedule (4) shall not exceed 5 percent of the district or charter school’s enrollment multiplied by 120 hours, multiplied by the hourly rate for the 2004–05 fiscal year.

Item		Amount
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4. Notwithstanding any other provision of law, the rate of reimbursement shall be \$3.59 per hour of supplemental instruction.
5. Notwithstanding any other provision of law, if the funds in this item are insufficient to fund otherwise valid claims, the superintendent shall adjust the rates to conform to available funds.
6. Of the funds appropriated in this item, \$8,560,000 is for the purpose of providing a cost-of-living adjustment of 2.41 percent. Additionally, \$3,342,000 is for the purpose of providing for increases in average daily attendance at a rate of 0.95 percent for supplemental instruction and remedial programs, in lieu of the amount that would otherwise be provided pursuant to any other provision of law.
7. Funds contained in Schedules (1) and (2) of this item shall first be used to offset any state-mandated reimbursable costs that may otherwise be claimed through the state mandates reimbursement process of implementing Sections 37252 and 37252.2 of the Education Code. Local education agencies accepting funding from these schedules shall reduce their estimated and actual mandate reimbursement claims by the amount of funding provided to them from these schedules.
8. Notwithstanding any other provision of law, an additional \$85,866,000 in expenditures for this item has been deferred until the 2005–06 fiscal year.

6110-105-0001—For local assistance, Department of Education (Proposition 98), for transfer to Section A of the State School Fund for the purposes of Article 1 (commencing with Section 52300) of Chapter 9 of Part 28 of the Education Code 356,243,000

Schedule:

- (1) 10.10.004-Instruction Program—
 School Apportionments, Re-
 gional Occupational Centers and
 Programs363,560,000
- (2) Reimbursements -7,317,000

Provisions:

1. Notwithstanding any other provision of law, the funds appropriated in this item are for transfer by the Controller to Section A of the State School Fund, in lieu of the amount that otherwise would be appropriated for transfer from the General

Item

Amount

Fund in the State Treasury to Section A of the State School Fund for the 2004–05 fiscal year pursuant to Sections 14002 and 14004 of the Education Code, in an amount as needed for apportionment pursuant to Article 1 (commencing with Section 52300) of Chapter 9 of Part 28 of the Education Code.

2. Funds appropriated in this item shall be apportioned by the Superintendent of Public Instruction pursuant to Article 1.5 (commencing with Section 52335) of Chapter 9 of Part 28 of the Education Code.
3. Because Chapter 482 of the Statutes of 1984 was chaptered after Chapter 268 of the Statutes of 1984, the Legislature's intent regarding the eligibility of regional occupational centers and programs for incentive funding for a longer instructional year under Section 46200 of the Education Code was not carried out. It is the intent of the Legislature that regional occupational centers and programs not be eligible for that incentive funding.

Notwithstanding any other provision of law, the funds appropriated in this item may not be expended for the purposes of providing or continuing incentive funding for a longer instructional year pursuant to Section 46200 of the Education Code.

4. Notwithstanding any other provision of law, funds appropriated in this item for average daily attendance (ADA) generated by participants in welfare-to-work activities under the CalWORKs program established in Article 3.2 (commencing with Section 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code may be appropriated on an advance basis to local education agencies based on anticipated units of ADA if a prior application for this additional ADA funding has been approved by the Superintendent of Public Instruction.
5. Of the amount appropriated in this item \$1,161,000 is to fund remedial education services for participants in welfare-to-work activities under the CalWORKs program.
6. Of the funds appropriated in this item, \$13,595,000 is provided for increases in average daily attendance at a rate of 3.67 percent. If

Item	Amount
<p>growth funds are insufficient, the State Department of Education may adjust the per-pupil growth rates to conform to available funds. Additionally, \$9,255,000 is for the purpose of providing a cost-of-living adjustment at a rate of 2.41 percent.</p> <p>7. An additional \$37,051,000 in expenditures for this item has been deferred until the 2005–06 fiscal year.</p>	
<p>6110-106-0001—For local assistance, Department of Education (Proposition 98), for transfer by the Controller to Section A of the State School Fund, Program 20.30, West Contra Costa Facilities Payment. Provisions:</p> <p>1. For allocation to the West Contra Costa Unified School District as specified by paragraph (1) of subdivision (a) of Education Code Section 41329.</p>	800,000
<p>6110-107-0001—For local assistance, Department of Education (Proposition 98), Program 10.10-County Offices of Education Fiscal Oversight Schedule:</p> <p>(1) 10.10.002-COE Oversight..... 5,268,000 (2) 10.10.005-FCMAT 2,729,000 (3) 10.10.012-FCMAT: CSIS..... 250,000 (4) 10.10.013-Audit Appeal Panel 55,000 (5) 10.10.015-Interim Reporting 1,050,000 (6) 10.10.016-Staff Development..... 700,000</p> <p>Provisions:</p> <p>1. The funds appropriated in Schedule (1) of this item are for the purposes provided in paragraph (1) of subdivision (a) of Section 29 of Chapter 1213 of the Statutes of 1991 and subsequent legislation.</p> <p>2. Funds contained in Schedule (1) may be used for activities, including, but 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,</p>	10,052,000

Item

Amount

- the Superintendent of Public Instruction, the Director of Finance, and the Office of the Secretary for Education.
- 2.5. Funds contained in Schedule (1) shall first be used to offset any state-mandated reimbursable costs that may otherwise be claimed through the state mandates reimbursement process for implementing Sections 42100, 42127, 42127.5, 42127.6, 42128, and 42131 of the Education Code, and Section 3540.2 of the Government Code.
 3. Of the funds appropriated in Schedule (2) of this item:
 - (a) \$2,061,000 shall be allocated by the Controller directly to a county office of education, selected pursuant to subdivision (a) of Section 42127.8 of the Education Code to oversee Fiscal Crisis and Management Assistance Team (FCMAT) responsibilities with respect to these funds, to meet the costs of participation under Section 42127.8 of the Education Code.
 - (b) \$250,000 shall be available to develop and implement the activities of regional teams of fiscal experts to assist districts in fiscal distress.
 - (c) \$418,000 shall be allocated to FCMAT for the purpose of providing, through computer technology, financial and demographic information that is interactive and immediately accessible to all local education agencies to assist them in their decisionmaking process. To ensure a completely integrated system, this computer information should be developed in collaboration with the State Department of Education, and should be compatible with the hardware and software of the State Department of Education, so that this information may also assist state-level policymakers in making comparable standardized financial information available to the local education agencies and the public.
 4. Of the funds appropriated in Schedule (3) of this item, \$250,000 shall be available to the FCMAT to pay for project management services for CSIS.

Item

Amount

- These funds shall be used to supplement and not supplant other CSIS funds available for project management services.
5. The funds appropriated in Schedule (5) of this item are for the increased responsibility of county offices of education for oversight of school districts with audit exceptions, districts with qualified or negative interim reports, districts that may be unable to meet financial obligations for the current or subsequent fiscal years, or districts with disapproved budgets, as provided under Chapter 924 of the Statutes of 1993. Of these funds, \$150,000 shall be available for no more than a 25 percent state reimbursement for the previously specified activities.
 6. Up to \$900,000 of the funds appropriated in Schedule (5) may also be used to fully reimburse county office of education activities for extraordinary costs of audits, examinations, or reviews of district budgets in cases where fraud, misappropriation of funds or other illegal fiscal practices require COE review, pursuant to Section 2 of Chapter 620 of the Statutes of 2001. Allocation of the funds shall be administered by the Fiscal Crisis and Management Assistance Team (FCMAT) on a reimbursement basis. All reimbursements shall be subject to the approval of both the Department of Finance and the State Department of Education.
 7. The amount appropriated in Schedule (5) of this item and in Schedule (5) of Item 6110-107-0001 of the Budget Act of 2003 (Chapter 157, Statutes of 2003) shall remain available for expenditure for the 2004–05 and 2005–06 fiscal years. Any unexpended balance as of September 1, 2005, shall be available through July 30, 2006, for the following, in order of descending priority:
 - (a) Regional assistance teams developed pursuant to Provision 3(b) of this item.
 - (b) Staff development pursuant to Provision 10 of this item.
 8. Notwithstanding Section 26.00, the funds appropriated in this item shall be allocated in accordance with the above schedule unless a revision to the allocations contained herein has been approved by the Department of Finance. The Department of Finance may not authorize any such

Item

Amount

- revision 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 not sooner than whatever lesser time the chairperson of the joint committee, or his or her designee, may in each instance determine.
9. The funds appropriated in Schedule (4) of this item are for the additional staff and resources needed for FCMAT to ensure that timely resolution of audit findings is achieved pursuant to the directives of Education Code Section 41344.
 10. Of the funds appropriated in Schedule (6) of this item, \$500,000 is for the purpose of providing staff development to local education agency school finance and business personnel, as provided in Section 42127.8 of the Education Code. The funds appropriated in Schedule (6) shall be allocated by the Controller directly to a county office of education selected pursuant to subdivision (a) of Section 42127.8 of the Education Code to oversee FCMAT's responsibilities with respect to these funds. \$200,000 of the funds appropriated in Schedule (6) is for the purpose of providing training that shall be developed and facilitated pursuant to Section 42127.8 of the Education Code to increase school district and school-level capacity to implement and manage site-based budgeting and decisionmaking governance structures.
 11. Notwithstanding any other provision of law, funds appropriated in Schedules (1), (2), (4), (5), and (6), of this item to a county office of education, selected pursuant to subdivision (a) of Section 42127.8 of the Education Code to oversee FCMAT responsibilities, shall be allocated by the State Controller directly to that county office of education as soon as possible but no later than 60 days after the enactment of the Budget Act. Funds appropriated in this item shall not be subject to grant allocation or review processes on the part of the State Department of Education nor the Superintendent of Public Instruction. The county office of education that receives these funds shall annually provide a report detailing past year expenditures, identifying the local edu-

Item	Amount
<p>cation agencies (LEA) assisted with these funds and a summary of progress for each. Additionally, the report shall identify a plan for the proposed uses of the allocations in this item, identifying estimated expenditures for each LEA anticipated to be served. This report shall be submitted to the Department of Education and to the Department of Finance by October 1, 2004.</p>	
<p>6110-108-0001—For local assistance, Department of Education (Proposition 98), for transfer to Section A of the State School Fund, Program 20.60.020.200-Tenth Grade Counseling pursuant to Section 48431.7 of the Education Code</p>	11,830,000
<p>Provisions:</p>	
<p>1. Of the funds appropriated in this item, \$109,000 is for the purpose of providing an adjustment for increases in average daily attendance at a rate of 0.95 percent. Additionally, \$278,000 is for the purpose of providing a cost-of-living adjustment at a rate of 2.41 percent.</p>	
<p>6110-111-0001—For local assistance, Department of Education (Proposition 98), for transfer to Section A of the State School Fund, Home to School Transportation, pursuant to Article 10 (commencing with Section 41850) of Chapter 5 of Part 24 of the Education Code and Small School District Transportation, pursuant to Article 4.5 (commencing with Section 42290) of Chapter 7 of Part 24 of the Education Code</p>	491,829,000
<p>Schedule:</p>	
<p>(1) 10.10.006-Pupil Transportation</p>	487,117,000
<p>(2) 10.10.008-Small School District Bus Replacement</p>	4,712,000
<p>Provisions:</p>	
<p>1. Of the funds appropriated in this item, \$4,980,000 is for the purpose of providing an adjustment for increases in average daily attendance at a rate of 0.95 percent. If funds for growth are insufficient, the State Department of Education may adjust the per-pupil growth rates to conform to available funds. Additionally, \$12,753,000 is for the purpose of providing a cost-of-living adjustment (COLA) at a rate of 2.41 percent.</p>	
<p>2. An additional \$50,103,000 in expenditures for this item has been deferred until the 2005–06 fiscal year.</p>	

Item	Amount
6110-112-0001—For local assistance, Department of Education (Proposition 98), for transfer by the Controller to Section A of the State School Fund, Program 20.60.017-Instructional Time and Staff Development Reform Program.....	237,024,000
Provisions:	
1. The funds appropriated in this item are available 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 Division 3 of Title 2 of the Education Code.	
2. Of the funds appropriated in this item, \$1,737,000 is provided for increases in the number of eligible participants. Additionally, \$5,620,000 is for the purpose of providing a cost-of-living adjustment at a rate of 2.41 percent, resulting in a daily rate of \$306.50 for teachers and \$158.92 for classified paraprofessionals.	
6110-112-0890—For local assistance, Department of Education, Program 20.60.036-Public Charter Schools, payable from the Federal Trust Fund.....	37,822,000
Provisions:	
1. Of the funds appropriated in this item, an amount of up to \$422,000 may be transferred to Item 6110-001-0890 to be used for state operations purposes relating to federal charter school grants.	
6110-113-0001—For local assistance, Department of Education (Proposition 98), for purposes of California’s pupil testing program.....	79,360,000
Schedule:	
(2) 20.70.030.005-Assessment Review and Reporting	2,313,000
(3) 20.70.030.006-STAR Program	53,836,000
(4) 20.70.030.007-English Language Development Assessment	11,437,000
(5) 20.70.030.008-High School Exit Examination.....	10,367,000
(6) 20.70.030.016-Test Development: STAR Exam	1,407,000
(7) 20.70.030.015-California High School Proficiency Exam	1,020,000
(8) Reimbursements.....	-1,020,000
Provisions:	
1. The funds appropriated in this item shall be for the pupil testing programs authorized by Chapter 5 (commencing with Section 60600), Chapter 7	

Item

Amount

- (commencing with Section 60810), and Chapter 9 (commencing with Section 60850) of Part 33 of the Education Code.
2. The funds appropriated in Schedule (3) include funds for primary language tests administered pursuant to Article 4 (commencing with Section 60640) of Chapter 5 of Part 33 of the Education Code.
 3. The funds appropriated in Schedule (4) shall be available for approved contract costs and apportionment costs for administration of an English Language development test meeting the requirements of Chapter 7 (commencing with Section 60810) of Part 33 of the Education Code. A total of \$9,593,000 is provided as incentive funding of \$5 per pupil for district apportionments for the English Language Development Test. As a condition of receiving these funds, school districts must agree to provide information determined to be necessary to comply with the data collection and reporting requirements of the No Child Left Behind Act of 2001 (P.L. 107–110) regarding English language learners by the State Department of Education with approval by the State Board of Education.
 4. The funds appropriated in Schedule (5) include funds for approved contract costs and apportionment costs for the administration of the HSEE pursuant to Chapter 9 (commencing with Section 60850) of Part 33 of the Education Code.
 5. The funds appropriated in Schedule (6) shall be available for test item development for the STAR program during the 2004–05 fiscal year. The test items developed with these funds shall make progress in aligning this exam with the State Board of Education-approved academic content standards and in ensuring that this exam is valid and reliable as measured by industry standards.
 6. It is the intent of the Legislature that the State Department of Education develop a plan to streamline existing programs to eliminate duplicative tests and minimize the instructional time lost to test administration. The State Department of Education shall ensure that all statewide tests meet industry standards for validity and reliability.

Item	Amount
7. The State Board of Education shall annually establish the amount of funding to be apportioned to school districts for the English Language Development Assessment and the High School Exit Examination. The amount of funding to be apportioned per test shall not be valid without the approval of the Department of Finance.	
8. Funds provided in Schedules (3), (4), and (5) shall first be used to offset any state-mandated reimbursable costs that otherwise may be claimed through the state mandates reimbursement process for the Standardized Testing and Reporting Program, the California English Language Development Test, and the California High School Exit Exam, respectively. Local education agencies accepting funding from these schedules shall reduce their estimated and actual mandate reimbursement claims by the amount of funding provided to them from these schedules.	
6110-113-0890—For local assistance, Department of Education-Title VI Flexibility and Accountability, payable from the Federal Trust Fund.....	41,289,000
Schedule:	
(1) 20.60.030.030-Alternative Schools Accountability Model.....	775,000
(2) 20.70.030.006-STAR Program	8,549,000
(2.5) 20.70.030.016-Instructional Support: Test Development—STAR Exam.....	535,000
(3) 20.70.030.008-High School Exit Examination.....	7,884,000
(4) 20.70.030.017-NCLB Longitudinal Database.....	2,993,000
(5.5) 20.70.030.007-Instructional Support: English Language Development Assessment.....	10,156,000
(6) 20.70.030.022-High School Exit Examination Workbooks.....	2,500,000
(6.5) 20.70.030.026-Instructional Support: Primary Language Test Developmental	3,000,000
(7) 20.70.030.032-California Alternate Performance Assessment	2,200,000
(8) 20.070.030.029-High School Exit Examination: Evaluation of Instruction	498,000

Item	Amount
(9) 20.070.030.031-CELDT-Vertical Scaling Project.....	300,000
(10) 20.070.030.005-Assessment Review and Reporting.....	600,000
(11) 20.90.001.010-California School Information Services (CSIS) Local Grants	1,000,000
(12) 20.90.001.020-California School Information Services (CSIS) Administration.....	299,000

Provisions:

1. Funds appropriated in Schedule (1) are provided for the continued development of the Alternative Schools Accountability Model to include alternative schools within the state’s system of accountability.
2. Funds appropriated in Schedule (2) are provided for approved contract and district apportionment costs related to the Standardized Testing and Reporting program. Of this amount, \$1.4 million is for the planning and development of science tests and \$650,000 is for reporting Adequate Yearly Progress pursuant to the No Child Left Behind Act of 2001 (P.L. 107-110).
3. Funds appropriated in Schedule (3) are provided for approved contract and district apportionment costs related to the High School Exit Examination.
4. Funds appropriated in Schedule (4) are provided to the California School Information Services (CSIS) for the assignment and maintenance of student identifiers necessary for the establishment of a longitudinal database for the requirements of the No Child Left Behind Act of 2001 (P.L. 107-110), pursuant to Chapter 1002, Statutes of 2002. Of these funds, \$721,000 is provided on a one-time basis, carried over from previous years.
5. The funds appropriated in Schedule (5.5) shall be available for approved contract costs for administration of an English language development test meeting the requirements of Chapter 7 (commencing with Section 60810) of Part 33 of the Education Code.
6. Funds appropriated in Schedule (6) are for the printing and distribution of the High School Exit Examination Workbooks.

Item	Amount
7. Funds appropriated in Schedule (7) are for approved contract costs and district apportionments of \$5 per pupil for the California Alternate Performance Assessment.	
8. Funds appropriated in Schedule (8) are for an evaluation of instruction in the standards covered by the High School Exit Examination in order to determine the progress of middle schools and high schools in implementing instruction and curriculum aligned to those standards. The Department of Finance may transfer funds provided pursuant to this provision to Item 6110-001-0890.	
9. Funds appropriated in Schedule (9) are to produce a vertical scale for the California English Language Development Test to allow a more accurate system of holding schools accountable for improving English proficiency among English Language learners. The Department of Finance may transfer funds provided pursuant to this provision to Item 6110-001-0890.	
10. Funds appropriated in Schedule (10) are for providing local education agencies information regarding federal requirements associated with assessments.	
11. Funds provided in Schedules (2), (3), (5.5), and (7) shall first be used to offset any state-mandated reimbursable cost that otherwise may be claimed through the state mandates reimbursement process for the Standardized Testing and Reporting Program, the California High School Exit Exam, the California English Language Development Test, and the California Alternate Performance Assessment, respectively. Local education agencies accepting funding from these schedules shall reduce their estimated and actual mandate reimbursement claims by the amount of funding provided to them from these schedules.	
12. The funds appropriated in Schedule (2.5) shall be available for test item development for the STAR program during the 2004–05 fiscal year. The test items developed with these funds shall make progress in aligning this exam with academic content standards approved by the State Board of Education and in ensuring that this exam is valid and reliable as measured to industry standards.	

Item		Amount
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13. The funds appropriated in Schedule (6.5) are for the development of primary language tests aligned to state-adopted academic content standards, pursuant to legislation enacted during the 2003–04 Regular Session.
14. Of the amount appropriated in Schedule (11), \$1,000,000 is to provide partial first-year funding to implement the California School Information Services in up to 53 districts. It is the intent of the Legislature to appropriate \$2,900,000 in the Budget Act of 2005 to provide the remaining first-year funding and for the second-year implementation funding for the same districts. Funding amounts for first- and second-year implementation costs will be provided pursuant to Section 49084 of the Education Code.

6110-116-0001—For local assistance, Department of Education (Proposition 98), for transfer to Section A of the State School Fund, Program 20.60.030-School Improvement Programs, pursuant to Chapter 6 (commencing with Section 52000) of Part 28 of Division 4 of Title 2 of the Education Code..... 398,272,000

Schedule:

- (1) 20.60.030.010-For the purposes of making allowances for kindergarten and grades 1 to 6, inclusive....328,081,000
- (2) 20.60.030.020-For the purpose of making allowances for grades 7 to 12, inclusive 70,191,000

Provisions:

1. From the funds appropriated in Schedule (2), the State Department of Education shall allocate \$31.42 per unit of average daily attendance (ADA) generated by pupils enrolled in grades 7 and 8 to those school districts that received School Improvement Grants in the 1989–90 fiscal year at a rate of \$30 per unit of ADA generated by pupils enrolled in grades 7 and 8.
2. Of the funds appropriated in this item, \$1,709,000 is to provide an adjustment for increases in enrollment at a rate of 2.56 percent and \$9,372,000 is to provide a cost-of-living adjustment at a rate of 2.41 percent.

Item	Amount
6110-117-0001—For local assistance, State Department of Education, Program 10.70-Vocational Education, in lieu of the amount that otherwise would be appropriated pursuant to subdivision (b) of Section 19632 of the Business and Professions Code	512,000
6110-119-0001—For local assistance, Department of Education (Proposition 98), for transfer to Section A of the State School Fund, Program 20.40.060-Educational Services for Foster Youth pursuant to Chapter 11.3 (commencing with Section 42920) of Part 24 of Division 3 of Title 2 of the Education Code	9,048,000
Provisions:	
1. Of the funds appropriated in this item, \$83,000 is to provide an adjustment for increases in average daily attendance at a rate of 0.95 percent. If growth funds are insufficient, the State Department of Education may adjust the per-pupil growth rate to conform to the available funds. Additionally, \$213,000 is to provide a cost-of-living adjustment at a rate of 2.41 percent.	
6110-119-0890—For local assistance, Department of Education, for 10.30.060.002—Title I Program for Neglected and Delinquent Children, payable from the Federal Trust Fund.....	3,317,000
6110-120-0001—For local assistance, Department of Education (Proposition 98), for transfer to Section A of the State School Fund Program 20.40.100-Pupil Dropout Prevention Programs established pursuant to Article 6 (commencing with Section 52890) and Article 7 (commencing with Section 52900) of Chapter 12 of Part 28 of, Article 7 (commencing with Section 54720) of Chapter 9 of Part 29 of, and Chapter 3.5 (commencing with Section 58550) of Part 31 of, the Education Code	22,625,000
Provisions:	
1. The following provisions apply to pupil dropout prevention programs receiving funds pursuant to this item:	
(a) Prior to hiring an outreach consultant with funds appropriated in this item, a school or school district shall have adopted a plan, that includes a statement describing the specific duties of the outreach consultant and that has been approved by the Superintendent of Pub-	

Item

Amount

- lic Instruction. This duty statement shall require that the outreach consultant perform only activities that directly benefit “high-risk pupils” as defined in subdivision (c) of Section 54721 of the Education Code. Each outreach consultant shall receive no more than \$51,732 as annual compensation.
- (b) A school district or any school receiving funds for outreach consultants in schools with motivation and maintenance plans developed in accordance with Article 7 (commencing with Section 54720) of Chapter 9 of Part 29 of the Education Code shall collect and report data to the Superintendent of Public Instruction on pupil dropouts, together with any other data deemed necessary by the superintendent for the evaluation of motivation and maintenance programs. The data shall be reported in a format to be determined by the superintendent. Whenever feasible, the superintendent shall collect this data through the California Basic Educational Data System (CBEDS).
- (c) Notwithstanding the schedule set forth in Section 58554 of the Education Code, (1) the maximum fee for an initial diagnosis prepared by an educational clinic under the terms of the contract entered into pursuant to Section 58553 or 58553.5 of the Education Code shall not exceed \$106.14 and may be expended for outreach and pupil and family counseling in addition to the initial diagnosis of entering pupils, and (2) the maximum fee for each instructional hour or fee for additional diagnosis provided under the terms of a contract entered into pursuant to Section 58553 or 58553.5 of the Education Code shall not exceed \$7.12 per hour.
2. Of the amount appropriated in this item, \$208,000 is for the purpose of providing an adjustment for increases in average daily attendance at a rate of 0.95 percent. Additionally, \$532,000 is for the purpose of providing a cost-of-living adjustment at a rate of 2.41 percent.

Item	Amount
6110-122-0001—For local assistance, Department of Education (Proposition 98), for transfer to Section A of the State School Fund, Program 20.40.090-Specialized Secondary Programs, pursuant to Chapter 6 (commencing with Section 58800) of Part 31 of the Education Code	5,310,000
Provisions:	
1. Of the funds appropriated in this item, \$1,500,000 shall be allocated to Specialized Secondary Programs established pursuant to Chapter 6 (commencing with Section 58800) of Part 31 of the Education Code prior to the 1991–92 fiscal year that operate in conjunction with the California State University.	
2. Of the funds appropriated in this item, \$49,000 is to provide an adjustment for increases in average daily attendance at a rate of 0.95 percent. If growth funds are insufficient, the State Department of Education may adjust the per-pupil growth rate to conform to available funds. Additionally, \$125,000 is to provide a cost-of-living adjustment at a rate of 2.41 percent.	
6110-123-0001—For local assistance, Department of Education (Proposition 98), for implementation of the Public Schools Accountability Act, pursuant to Chapter 6.1 (commencing with Section 52050) of Part 28 of the Education Code	249,209,000
Schedule:	
(1) 20.60.030.031-Immediate Intervention/Underperforming Schools Program.....	53,067,000
(2) 20.60.030.034-Low-Performing Schools.....	193,141,000
(3) 20.60.030.036-Corrective Actions ..	3,001,000
Provisions:	
1. Funds appropriated in Schedule (1) are provided solely for the purpose of implementing the Immediate Intervention/Underperforming Schools Program, pursuant to Article 3 (commencing with Section 52053) of Chapter 6.1 of Part 28 of the Education Code. These funds are to fund implementation grants for the second and third cohorts of schools that received planning grants under the program during the 2000–01 and 2001–02 fiscal years.	

Item

Amount

- 2. Funds appropriated in Schedule (2) are provided solely for the purpose of implementing the High Priority Schools Grant Program for Low-Performing Schools, pursuant to Article 3.5 (commencing with Section 52055.600) of Chapter 6.1 of Part 28 of the Education Code.
- 3. Pursuant to Chapter 1020, Statutes of 2002, the funds appropriated in Schedule (3) shall, upon approval by the State Board of Education, be available to support schools working with School Assistance and Intervention Teams or schools subject to state or federal sanctions by the Superintendent of Public Instruction as part of the Immediate Intervention/Underperforming Schools Program or No Child Left Behind Act of 2001 (P.L. 107-110). To the extent necessary to fully fund the Immediate Intervention/Underperforming Schools Program and School Assistance and Intervention Teams, the Department of Finance may transfer funds between Schedule (1) and Schedule (3) of this item.

6110-123-0890—For local assistance, Department of Education, payable from the Federal Trust Fund..... 112,673,000
 Schedule:

- (1) 20.60.030.031-Immediate Intervention/Underperforming Schools Program..... 72,444,000
- (2) 20.60.030.035-Innovative Program, Title V-ESEA..... 40,229,000

Provisions:

- 1. Of the funds appropriated in Schedule (1) of this item, \$28,800,000 is available to provide implementation grants for federally funded schools currently participating in the Immediate Intervention/Underperforming Schools Program or the High Priority Schools Grant Program.
- 2. Of the funds appropriated in Schedule (1) of this item, \$43,644,000 is available for new Comprehensive School Reform Program grants. The State Department of Education may allocate up to \$15.2 million of these funds to qualified applications received in response to the Request for Applications the State Department of Education released in December 2003. For the remaining balance of these funds, the State Department of

Item

Amount

Education shall award grants in the following priority order to qualified applications from schools that neither are receiving nor have received funding from the High Priority Schools Grants Program, the Immediate Intervention/Underperforming Schools Program, or the Comprehensive School Reform Program: (a) schools in federal program improvement in districts that have either 15 or more schools in federal program improvement or in which 55 percent or more of the schools are in federal program improvement, (b) schools in federal program improvement, and (c) any other eligible schools in deciles 1 through 5, inclusive. Within each of these categories, schools having the lowest Academic Performance Index scores shall have priority. Funding shall be provided at a rate of \$200 per pupil, with each qualified applicant receiving a minimum grant of \$50,000, plus an additional 10 percent of the award amount for district support. In accordance with Section 52055.600 of the Education Code, to the extent that a school receiving a new Comprehensive School Reform Program grant also participates in a new cohort of the High Priority Schools Grant Program, funds for the Comprehensive School Reform Program shall count against that school's High Priority Schools Grant. Funding for the second and third years is contingent upon California receiving sufficient funding from the federal government to continue providing grants. If the State Department of Education does not receive sufficient qualified applications, any excess funding left may be used to provide second year grants to qualified applicants.

- 3. Of the funds appropriated in Schedule (1) of this item, \$32,928,000 are carryover funds from the 2003–04 fiscal year.

6110-124-0001—For local assistance, Department of Education (Proposition 98), for transfer to Section A of the State School Fund, Program 10.80.010-Gifted and Talented Pupil Program established pursuant to Chapter 8 (commencing with Section 52200) of Part 28 of the Education Code

44,018,000

Provisions:

- 1. An additional \$4,092,000 in expenditures for this purpose has been deferred to the 2005–06 fiscal year.

Item	Amount
2. Of the funds appropriated in this item, \$404,000 is for the purpose of providing an adjustment for increases in average daily attendance at a rate of 0.95 percent. Additionally, \$1,036,000 is for the purpose of providing a cost-of-living adjustment at a rate of 2.41 percent.	
6110-125-0001—For local assistance, Department of Education (Proposition 98), for English Language Learners Program 20.10.006-English Language Learners Student Assistance pursuant to Chapter 4 (commencing with Section 400) of Part 1 of Division 1 of Title 1 of the Education Code.....	54,999,000
Provisions:	
1. Of the funds appropriated in this item, \$505,000 is to provide an adjustment for increases in average daily attendance at a rate of 0.95 percent. If growth funds are insufficient, the State Department of Education may adjust the per-pupil growth rate to conform to available funds. Additionally, \$1,294,000 is to provide a cost-of-living adjustment at a rate of 2.41 percent.	
6110-125-0890—For local assistance, Department of Education	293,037,000
Schedule:	
(1) 10.30.010-Title I, Migrant Education.....	135,678,000
(2) 10.40.030.004-Refugee Children School Impact Grant	2,050,000
(3) 20.10.004-Title III, Language Acquisition	155,309,000
Provisions:	
1. Of the funds appropriated in Schedule (1) of this item, the State Department of Education shall use no less than \$6,500,000 and up to \$7,100,000 for the California Mini-Corps Program.	
2. The State Department of Education shall submit an expenditure plan to the Director of Finance and the Chairperson of the Joint Legislative Budget Committee that allocates all available carryover funds in the most effective method consistent with the one-time nature of the funds that ensures complete expenditure of the funds by local Migrant Education regions during the 2004–05 fiscal year. The Department of Finance shall review and approve or disapprove the plan within 21 days of submission. If the Department of Finance fails to either approve or disapprove the plan within 21	

Item

Amount

days, the plan shall be deemed to be approved. If the Department of Finance disapproves the plan, it shall (1) submit a letter to the Joint Legislative Budget Committee that explains the rationale for the disapproval, and (2) convene a working group consisting of representatives of the Department of Finance and the State Department of Education and the staff of the appropriate policy and fiscal committees of the Legislature. The working group shall jointly develop a revised expenditure plan and submit that plan to the Director of Finance for approval.

- 3. Of the funds appropriated in Schedule (1), \$10,200,000 in carryover funding for Migrant Education is provided on a one-time basis and shall be used for grants to the 22 Migrant Education regions. The State Department of Education shall allocate \$6,200,000 under the current state funding formula to promote academic achievement, and \$4,000,000 equitably to all 22 regions to promote parent involvement and leadership activities. Local education agencies shall decide which local entities can most effectively perform parental involvement services.
- 4. Of the funds appropriated in Schedule (3), \$278,000 in carryover funding for Title III, Language Acquisition, is provided on a one-time basis.
- 6. The Department of Education shall make information available to the Chairperson of the Joint Legislative Budget Committee and the chairpersons of the fiscal committees of each house of the Legislature, the Department of Finance and the Legislative Analyst's Office, by January 1, 2005, regarding (a) its progress in developing the new multiyear contract for statewide projects for the 2005-06 fiscal year and (b) an estimated date at which it expects to put out the 2005-06 fiscal year statewide project contracts. It is the intent of the Legislature that statewide project contracts be approved in a timely manner.

6110-126-0890—For local assistance, Department of Education, Program 20.60.290-Instructional Support, Title I, Part B of the Elementary and Secondary Education Act (Reading First Program) payable from the Federal Trust Fund..... 174,221,000

Item	Amount
Provisions:	
1. The funds appropriated in this item are provided pursuant to Article 1 (commencing with Section 51700) of Chapter 5 of Part 28 of the Education Code.	
2. Of the funds appropriated in this item, \$13,635,000 is available for bilingual programs pursuant to Section 51701 of the Education Code. If this funding is insufficient to fully fund the approved districts with these programs in a third round of Reading First grant approvals, first priority for available Reading First base funding shall be the approved districts with bilingual programs. The State Board of Education shall ensure parity in the duration and level of funding between grants for bilingual classrooms operating under Section 310 of the Education Code and grants for non-bilingual classrooms, including supplemental grants pursuant to Provision 3.	
3. Of the funds appropriated in this item, \$29,564,000 is available from prior years. The first priority for this funding is to increase the grant amount provided to existing grantees to \$8,000 per full-time-equivalent classroom teacher in the Reading First Program. As a condition of the receipt of this supplemental funding, the grantee shall provide a plan to utilize his or her Reading First program to lower the number of special education referrals based upon reading below grade-level and to provide alternative assistance to pupils. The plan should consist of, but is not limited to, providing diagnostic reading assessments, teacher release time to review assessment information and conduct reading intervention planning sessions, providing instruction to pupils identified as having reading difficulties, and teacher participation in the professional development activities focused on assisting students with reading difficulties. Any remaining amount shall be available to provide additional Reading First grants.	
4. The State Board of Education shall be required to seek legislative approval of any changes to the Reading First Program that exceed or modify program components authorized in Article 1 (commencing with Section 51700) of Chapter 5 of Part 28 of the Education Code, including any exten-	

Item	Amount
<p>sion of the grant period beyond three years. Reading First funds appropriated in this item may be used to provide student instruction pursuant to subparagraph (E) of paragraph (3) of subdivision (c) of Section 51700 of the Education Code.</p>	
<p>6110-127-0001—For local assistance, Department of Education (Proposition 98), for transfer to Section A of the State School Fund, Program 20.40.070-Opportunity Classes and Programs pursuant to Article 2.3 (commencing with Section 48643) of Chapter 4 of Part 27 of Division 4 of Title 2 of the Education Code</p>	2,700,000
<p>Provisions:</p>	
<p>1. Notwithstanding Section 48644 of the Education Code, funds allocated to school districts for the expansion of Opportunity Classes and Programs may not exceed \$518 per unit of average daily attendance (ADA), based on the additional enrollment in these classes and programs above the 1982–83 enrollment levels, expressed in terms of ADA. For purposes of making this allocation to opportunity programs, the Superintendent of Public Instruction shall use the following definition to express enrollment in opportunity programs: using total positive clock hours scheduled and attended during the year, 405 hours of opportunity program assignment equals one opportunity program ADA (405 hours is the product of a second principal apportionment divisor of 135 and three hours of attendance per day).</p>	
<p>2. Of the funds appropriated in this item, \$25,000 is to provide an adjustment for increases in average daily attendance at a rate of 0.95 percent. If growth funds are insufficient, the State Department of Education may adjust the per-pupil growth rate to conform to available funds. Additionally, \$64,000 is to provide a cost-of-living adjustment at a rate of 2.41 percent.</p>	
<p>6110-128-0001—For local assistance, Department of Education (Proposition 98), for transfer to Section A of the State School Fund, Program 10.30.070-Economic Impact Aid</p>	536,236,000
<p>Schedule:</p>	
<p>(1) 10.30.070.001-Article 2 (commencing with Section 54020) of Chapter 1 of Part 29 of Division 4 of Title 2 of the Education Code</p>	375,364,000

Item	Amount
<ul style="list-style-type: none"> (2) 10.30.070.020-Sections 54031 and 54033 of the Education Code, and Article 4 (commencing with Section 54040) of Chapter 1 of Part 29 of Division 4 of Title 2 of the Education Code 	160,872,000
Provisions:	
<ul style="list-style-type: none"> 1. If the funds appropriated in this item are insufficient to fully fund the allocations under Article 4 (commencing with Section 54040) of Chapter 1 of Part 29 of Division 4 of Title 2 of the Education Code, the Superintendent of Public Instruction shall prorate the allocations made pursuant to that article to reflect the amount of funding available. 3. Of the funds appropriated in this item, \$24,934,000 is for the purpose of providing an adjustment for increases in average daily attendance at a rate of 5 percent. If growth funds are insufficient, the State Department of Education may adjust the per-pupil growth rates to conform to available funds. Additionally, \$12,619,000 is to provide a cost-of-living adjustment at a rate of 2.41 percent. 	
6110-130-0001—For local assistance, Department of Education, Program 20.60.100-Advancement Via Individual Determination	10,300,000
Provisions:	
<ul style="list-style-type: none"> 1. Of the funds appropriated, \$1,300,000 is available for administration of the Advancement Via Individual Determination (AVID) centers and \$6,000,000 is available for competitive outreach grants to local education agencies for the AVID program. Notwithstanding any other provision of law, the remaining \$3,000,000 shall be used solely for the provision of advanced placement teacher training or tutoring services. 	
6110-132-0001—For local assistance, Department of Education (Proposition 98), for transfer to Section A of the State School Fund, Program 10.10-Targeted Instructional Improvement Grant pursuant to Chapter 2.5 (commencing with Section 54200) of Part 29 of the Education Code	569,009,000
Provisions:	
<ul style="list-style-type: none"> 1. Of the funds appropriated in this item, \$7,007,000 is to provide an adjustment for increases in average daily attendance at a rate of 0.95 percent. If growth funds are insufficient, the State Depart- 	

Item	Amount
<ul style="list-style-type: none"> ment of Education may adjust the per-pupil growth rates to conform to available funds. Additionally, \$17,945,000 is to provide a cost-of-living adjustment at a rate of 2.41 percent. 2. An additional \$95,397,000 in expenditures for this item has been deferred until the 2005–06 fiscal year. An additional \$95,397,000 in expenditures for this purpose is provided in Item 6110-485. 	
6110-136-0890—For local assistance, Department of Education, payable from the Federal Trust Fund.....	1,838,026,000
Schedule:	
(1) 10.30.060-Title I-ESEA	1,726,791,000
(2) 10.30.065-McKinney-Vento Homeless Children Education.....	9,326,000
(3) 10.30.080-Title I-School Improvement.....	101,909,000
Provisions:	
<ul style="list-style-type: none"> 1. In administering the accountability system required by this item, the State Department of Education shall align the forms, processes, and procedures required of local educational agencies in a manner that they may be utilized for the purposes of implementing the Public School Accountability Act, as established by Chapter 6.1 (commencing with Section 52050) of Part 28 of the Education Code, so that duplication of effort is minimized at the local level. 2. Of the funds appropriated in Schedule (3) of this item, \$12,500,000 shall be available for use by the State Department of Education for the purposes of the Statewide System of School Support established by Article 4.2 (commencing with Section 52059) of Chapter 6.1 of Part 28 of the Education Code. Of this amount, \$2,500,000 shall be provided on a one-time basis for costs incurred by counties in the 2003–04 fiscal year. 3. Of the funds appropriated in Schedule (3) of this item, up to \$8,600,000 shall be made available to support school assistance and intervention teams that enter into a contract with a school pursuant to subdivision (a) of Section 52055.51 of the Education Code. These funds shall be allocated in the amount of \$75,000 for each school assistance and intervention team assigned to an elementary or middle school, and \$100,000 for each team as- 	

Item

Amount

signed to a high school. The State Department of Education and Department of Finance may approve applications with justification for a total funding level of \$125,000.

- 4. Of the funds appropriated in Schedule (3) of this item, up to \$13,600,000 shall be made available to provide \$150 per pupil for each pupil in a school that is managed in accordance with paragraph (3) of subdivision (b) of Section 52055.5 of the Education Code or that contracts with a school assistance and intervention team pursuant to subdivision (a) of Section 52055.51 of the Education Code.
- 5. Of the funds appropriated in Schedule (1), \$10,700,000 for Even Start, and \$8,980,000 for Title I Basic, are carryover funds provided on a one-time basis.
- 6. Of the funds appropriated in Schedule (2), \$1,229,000 for McKinney-Vento Homeless Children Education are carryover funds provided on a one-time basis.
- 7. Of the funds appropriated in Schedule (3), \$66,796,000 shall be available pursuant to pending legislation regarding Title I district accountability. Of this amount, \$31,987,000 are carryover funds.

6110-137-0001—For local assistance, Department of Education, (Proposition 98), for transfer to Section A of the State School Fund, Program 20.60.260—Instructional Support, Mathematics and Reading Professional Development Program

31,728,000

Provisions:

- 1. The funds appropriated in this item shall be for allocation to local education agencies that participate in the Mathematics and Reading Professional Development Program established pursuant to Article 3 (commencing with Section 99230) of Chapter 5 of Part 65 of the Education Code.
- 2. Within 30 days of the enactment of this act, the Superintendent of Public Instruction shall calculate the percentage of teachers eligible for funding based on the funds appropriated in this item. Prior to notifying local education agencies of this percentage, the Superintendent of Public Instruction shall submit the calculation to the Department of Finance for verification.

Item	Amount
6110-137-0890—For local assistance, Department of Education, Program 20.10.005-Rural and Low Income Schools Grant, payable from the Federal Trust Fund	2,710,000
6110-139-0001—For local assistance, Department of Education (Proposition 98), Program 10.10-School Apportionments, Pupil Residency Verification	168,000
Provisions:	
1. Funds appropriated in this item are for the purpose of assisting school districts that are adjacent to the international border with their pupil residency verification, consistent with the intent of Section 48204.6 of the Education Code.	
6110-140-0001—For local assistance, Department of Education, (Proposition 98), Program 20-Instructional Support.....	4,549,000
Schedule:	
(1) 20.80.001-Student Friendly Services.....	500,000
(2) 20.90.001.020-California School Information Services Administration.....	3,899,000
(3) 20.90.001.030-California School Information Services Administration Independent Project Oversight	150,000
Provisions:	
1. The Superintendent of Public Instruction shall allocate the funds appropriated in Schedule (1) of this item for the Student Friendly Services program.	
2. The funds appropriated in Schedule (2) in this item shall be for allocation to the Fiscal Crisis and Management Assistance Team for costs associated with administration of the CSIS project.	
3. The Superintendent of Public Instruction shall allocate the funds appropriated in Schedule (3) to the Sacramento County Office of Education, which shall use the funds to contract for independent project oversight of the California School Information Services (CSIS) program. The independent project oversight shall include the submission of quarterly project reports on the progress of the CSIS program to the Legislature, the Department of Finance, the Superintendent of Public Instruction, the State Board of Education,	

Item	Amount
the Governor, the Legislative Analyst’s Office, and the Fiscal Crisis and Management Assistance Team for the duration of the program implementation.	
6110-144-0001—For local assistance, Department of Education (Proposition 98), Program 20.60.270-Principal Training Program pursuant to Article 4.6 (commencing with Section 44510) of Chapter 3 of Part 25 of the Education Code	5,000,000
6110-149-0001—For transfer by the Controller to the California Public School Library Protection Fund, pursuant to Section 18182 of the Education Code (Proposition 98).....	4,229,000
Provisions:	
1. Funds appropriated in this item shall be transferred to the California Public School Library Protection Fund to provide funding for the acquisition of school library materials pursuant to Article 7 (commencing with Section 18180) of Chapter 2 of Part 11 of the Education Code.	
6110-151-0001—For local assistance, Department of Education (Proposition 98), for transfer to Section A of the State School Fund, Program 10.30.050 and Program 10.30.051-American Indian Education	4,476,000
Schedule:	
(1) 10.30.050-American Indian Education Centers established pursuant to Article 6 (commencing with Section 33380) of Chapter 3 of Part 20 of Division 2 of Title 2 of the Education Code	3,906,000
(2) 10.30.051-American Indian Early Childhood Education Program established pursuant to Chapter 6.5 (commencing with Section 52060) of Part 28 of the Education Code .	570,000
Provisions:	
1. Of the amount appropriated in this item, \$41,000 is to provide an adjustment for increases in average daily attendance at a rate of 0.95 percent. If the amount needed to fund growth is insufficient, the State Department of Education may adjust the per-pupil growth rate to reflect the available funds. Additionally, \$105,000 is to provide a cost-of-living adjustment (COLA) at a rate of 2.41 percent.	

Item	Amount
6110-152-0001—For local assistance, Department of Education, Program 10.30.050-American Indian Education Centers pursuant to Article 6 (commencing with Section 33380) of Chapter 3 of Part 20 of the Education Code	376,000
6110-156-0001—For local assistance, Department of Education (Proposition 98), 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 for the purposes of Proposition 98 educational programs funded by this item, in lieu of the amount that otherwise would be appropriated pursuant to statute....	563,533,000
Schedule:	
(1) 10.50.010.001-Adult Education.....	563,533,000
(2) 10.50.010.008-Remedial education services for participants in the CalWORKs program.....	8,739,000
(3) Reimbursements-CalWORKs.....	-8,739,000
Provisions:	
1. Credit for participating in adult education classes or programs may be generated by a special day class pupil only for days in which the pupil has met the minimum day requirements set forth in Section 46141 of the Education Code.	
2. The funds appropriated in Schedule (2) constitute the funding for both remedial education and job training services for participants in the CalWORKs program (Article 3.2 (commencing with Section 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code). Funds shall be apportioned by the Superintendent of Public Instruction for direct instructional costs only to school districts and Regional Occupational Centers and Programs (ROC/Ps) that certify that they are unable to provide educational services to CalWORKs recipients within their adult education block entitlement or ROC/P block entitlement, or both. Allocations shall be distributed by the Superintendent of Public Instruction as equal statewide dollar amounts, based on the number of CalWORKs eligible family members served in the county.	
3. Providers receiving funds under this item for adult basic education, English as a Second Language, and English as a Second Language-Citizenship for legal permanent residents, shall, to the extent	

Item

Amount

- possible, grant priority for services to immigrants facing the loss of federal benefits under the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996. Citizenship and naturalization preparation services funded by this item shall include, to the extent consistent with applicable federal law, all of the following: (a) outreach services; (b) assessment of skills; (c) instruction and curriculum development; (d) professional development; (e) citizenship testing; (f) naturalization preparation and assistance; and (g) regional and state coordination and program evaluation.
4. The funds appropriated in Schedule (2) of this item shall be subject to the following:
 - (a) The funds shall be used only for educational activities for welfare recipient students and those in transition off of welfare. The education activities shall be limited to those designed to increase self-sufficiency, job training, and work. These funds shall be used to supplement and not supplant existing funds and services provided for welfare recipient students and those in transition off of welfare.
 - (b) Notwithstanding any other provisions of law, each local education agency's individual cap for adult education and regional occupational center and programs (ROC/Ps), average daily attendance shall not be increased as a result of the appropriations made by this section.
 - (c) Funds may be claimed by local education agencies for services provided to welfare recipient students and those in transition off of welfare pursuant to this section only if all of the following occur:
 - (1) Each local education agency has met the terms of the interagency agreement between the State Department of Education and the Department of Social Services pursuant to Provision 2 of this item.
 - (2) Each local education agency has fully claimed its respective adult education or ROC/P average daily attendance cap for the current year.

Item

Amount

- (3) Each local education agency has claimed the maximum allowable funds available under the interagency agreement pursuant to Provision 2 of this item.
- (d) Each local education agency shall be reimbursed at the same rate as it would otherwise receive for services provided pursuant to this item or pursuant to Item 6110-105-0001 of Section 2.00 of this act, and shall comply with the program requirements for adult education pursuant to Chapter 10 (commencing with Section 52500) of Part 28 of Division 4 of Title 2 of the Education Code, and ROC/P requirements pursuant to Article 1 (commencing with Section 52300) of, and Article 1.5 (commencing with Section 52335) of, Chapter 9 of, Part 28 of Division 4 of Title 2 of the Education Code, respectively.
- (e) Notwithstanding any other provisions of law, funds appropriated in this section for average daily attendance (ADA) generated by participants in the CalWORKs program may be apportioned on an advance basis to local education agencies based on anticipated units of ADA if a prior application for this additional ADA funding has been approved by the Superintendent of Public Instruction.
- (f) The Legislature finds the need for good information on the role of local education agencies in providing services to individuals who are eligible for or recipients of CalWORKs assistance. This information includes the extent to which local education programs serve public assistance recipients and the impact these services have on the recipients' ability to find jobs and become self-supporting.
- (g) The State Department of Education shall develop a data and accountability system to obtain information on education and job training services provided through state-funded adult education programs and regional occupational centers and programs. The system shall collect information on (1) program funding levels and sources; (2) characteristics of participants; and (3) pupil and program outcomes. The department shall work with the Department of Finance and Legislative Ana-

Item

Amount

lyst in determining the specific data elements of the system and shall meet all information technology reporting requirements of the Department of Finance.

- (h) As a condition of receiving funds provided in Schedule (2) of this item or any General Fund appropriation made to the State Department of Education specifically for education and training services to welfare recipient students and those in transition off of welfare, local adult education programs and regional occupational centers and programs shall collect program and participant data as described in this section and as required by the State Department of Education. The State Department of Education shall require that local providers submit to the state aggregate data for the period July 1, 2004, to June 30, 2005, inclusive.

5. Of the funds appropriated in this item, \$13,421,000 is provided for increases in average daily attendance at a rate of 2.50 percent. If growth funds are insufficient, the State Department of Education may adjust the per-pupil growth rates to conform to available funds. Additionally, \$13,262,000 is for the purpose of providing a cost-of-living adjustment at a rate of 2.41 percent.

6. An additional \$42,959,000 in expenditures for this item has been deferred until the 2005–06 fiscal year.

6110-156-0890—For local assistance, Department of Education, Program 10.50.010.001-Adult Education, payable from the Federal Trust Fund..... Provisions:

81,715,000

- 1. Under any grant awarded by the State Department of Education under this item to a qualifying community-based organization to provide adult basic education in English as a Second Language and English as a Second Language-Citizenship classes, the department shall make an initial payment to the organization of 25 percent of the amount of the grant. In order to qualify for an advance payment, a community-based organization shall submit an expenditure plan and shall guarantee that appropriate standards of educational quality and fiscal accountability are maintained. In addition, reimbursement of claims shall be dis-

Item

Amount

tributed on a quarterly basis. The State Department of Education shall withhold 10 percent of the final payment of a grant as described in this provision until all claims for that community-based organization have been submitted for final payment.

- 2. (a) Notwithstanding any other provision of law, all nonlocal educational agencies (Non-LEA) receiving greater than \$300,000 pursuant to this item shall submit an annual organizational audit, as specified, to the State Department of Education, Office of External Audits.

All audits shall be performed by one of the following: (1) a certified public accountant possessing a valid license to practice within California; (2) a member of the State Department of Education’s staff of auditors; or (3) in-house auditors, if the entity receiving funds pursuant to this item is a public agency, and if the public agency has internal staff that performs auditing functions and meets the tests of independence found in Standards for Audits of Governmental Organization, Programs, Activities and Functions issued by the Comptroller General of the United States.

The audit shall be in accordance with State Department of Education audit guidelines and Office of Management and Budget, Circular No. A-133, Audits of Institutions of Higher Education and Other Non-Profit Institutions.

Non-LEA entities receiving funds pursuant to this item shall submit the annual audit no later than six months from the end of the agency fiscal year. If, for any reason, the contract is terminated during the contract period, the auditor shall cover the period from the beginning of the contract through the date of termination.

Non-LEA entities receiving funds pursuant to this item shall be held liable for all State Department of Education costs incurred in obtaining an independent audit if the contractor fails to produce or submit an acceptable audit.

- (b) Notwithstanding any other provision of law, the State Department of Education shall annually submit to the Governor, Joint Legisla-

Item

Amount

tive Budget Committee, and Joint Legislative Audit Committee limited scope audit reports of all subrecipients it is responsible for monitoring that receive between \$25,000 and \$300,000 of federal awards, and that do not have an organization-wide audit performed. These limited scope audits shall be conducted in accordance with the State Department of Education audit guidelines and Office of Management and Budget, Circular No. A-133. The State Department of Education may charge audit costs to applicable federal awards, as authorized by OMB, Circular No. A-133 Section 230(b)(2).

The limited scope audits shall include agreed-upon procedures engagements conducted in accordance with either AICPA generally accepted auditing standards or attestation standards, and address one or more of the following types of compliance requirements: allowed or unallowed activities; allowable costs and cost principles; eligibility; matching; level of effort; earmarking; and reporting.

The State Department of Education shall contract for the limited scope audits with a certified public accountant possessing a valid license to practice within the state or with an independent auditor.

3. On or before March 1, 2005, the State Department of Education shall report to the appropriate subcommittees of the Assembly Budget Committee and the Senate Budget and Fiscal Review Committee on the following aspects of Title II of the federal Workforce Investment Act: (a) the makeup of those adult education providers that applied for competitive grants under Title II and those that obtained grants, by size, geographic location, and type (school district, community colleges, community-based organizations, other local entities); (b) the extent to which participating programs were able to meet planned performance targets; and (c) a breakdown of the types of courses (ESL, ESL Citizenship, ABE, ASE) included in the performance targets of participating agencies. It is the intent of the Legislature that the Legisla-

Item

Amount

ture and State Department of Education utilize the information provided pursuant to this provision to (a) evaluate whether any changes need to be made to improve the implementation of the accountability-based funding system under Title II and (b) evaluate the feasibility of any future expansion of the accountability-based funding system using state funds.

- 4. The State Department of Education shall continue to ensure that outcome measures for Department of Mental Health and Department of Developmental Services clients are set at a level where these clients will continue to be eligible for adult education services in the 2004–05 fiscal year and beyond to the full extent authorized under federal law. The State Department of Education shall also consult with the Department of Mental Health, Department of Developmental Services, and Department of Finance for this purpose.

6110-158-0001—For local assistance, Department of Education (Proposition 98), for transfer by the Controller to Section A of the State School Fund in lieu of the amount that otherwise would be appropriated pursuant to Section 41841.5 of the Education Code, Program 10.50.010.002-Adults in Correctional Facilities

14,596,000

Provisions:

- 1. Notwithstanding Section 41841.5 of the Education Code, or any other provision of law, the amount appropriated in this item and any amount allocated for this program in this act shall be the only funds available for allocation by the Superintendent of Public Instruction to school districts or county offices of education for the Adults in Correctional Facilities program.
- 2. Notwithstanding Section 41841.5 of the Education Code, or any other provision of law, the amount appropriated in this item shall be allocated based upon prior-year rather than current year expenditures.
- 3. Notwithstanding any other provision of law, funding distributed to each local education agency (LEA) for reimbursement of services provided in the 2003–04 fiscal year for the Adults in Correction Facilities program shall be limited to the amount received by the agency for services provided in the 2002–03 fiscal year. Funding shall re-

Item

Amount

duced or eliminated, as appropriate, for any LEA that reduces or eliminates services provided under this program in the 2003–04 fiscal year, as compared to the level of services provided in the 2002–03 fiscal year. Any funds remaining as a result of those decreased levels of service shall be allocated to provide support for new programs in accordance with Section 41841.8 of the Education Code.

- 4. Notwithstanding any other provision of law, funds appropriated by this item for growth in average daily attendance first shall be allocated to programs that are funded for 20 units or less of average daily attendance, up to a maximum of 20 additional units of average daily attendance per program.
- 5. Of the funds appropriated in this item, \$349,000 is provided for increases in average daily attendance at a rate of 2.50 percent. If growth funds are insufficient, the State Department of Education may adjust the per-pupil growth rates to conform to available funds. Additionally, \$281,000 is for the purpose of providing a cost-of-living adjustment at a rate of 1.96 percent.

6110-161-0001—For local assistance, Department of Education (Proposition 98), Program 10.60-Special Education Programs for Exceptional Children..... 2,718,608,000

Schedule:

- (1) 10.60.050.003-Special education instruction 2,658,023,000
- (2) 10.60.050.080-Early Education Program for Individuals with Exceptional Needs 74,980,000
- (3) Reimbursements for Early Education Program, Part C-14,395,000

Provisions:

- 1. Funds appropriated by this item are for transfer by the Controller to Section A of the State School Fund, in lieu of the amount that otherwise would be appropriated for transfer from the General Fund in the State Treasury to Section A of the State School Fund for the 2004–05 fiscal year pursuant to Sections 14002 and 41301 of the Education Code, for apportionment pursuant to Part 30 (commencing with Section 56000) of the Education Code, superseding all prior law.

Item

Amount

2. Of the funds appropriated in Schedule (1) of this item, \$11,234,000, plus any COLA, shall be available for the purchase, repair, and inventory maintenance of specialized books, materials, and equipment for pupils with low-incidence disabilities, as defined in Section 56026.5 of the Education Code.
3. Of the funds appropriated in Schedule (1) of this item, \$8,612,000, plus any COLA, shall be available for the purposes of vocational training and job placement for special education pupils through Project Workability I pursuant to Article 3 (commencing with Section 56470) of Chapter 4.5 of Part 30 of the Education Code. As a condition of receiving these funds, each local educational agency shall certify that the amount of non-federal resources, exclusive of funds received pursuant to this provision, devoted to the provision of vocational education for special education pupils shall be maintained at or above the level provided in the 1984–85 fiscal year. The Superintendent of Public Instruction may waive this requirement for local educational agencies that demonstrate that the requirement would impose a severe hardship.
4. Of the funds appropriated in Schedule (1) of this item, \$4,492,000, plus any COLA, shall be available for regional occupational centers and programs that serve pupils having disabilities, and \$75,614,000, plus any COLA, shall be available for regionalized program specialist services, \$1,765,000, plus any COLA, for small special education local plan areas (SELPAs) pursuant to Section 56836.24 of the Education Code.
5. Of the funds appropriated in Schedule (1), \$1,000,000 is provided for extraordinary costs associated with single placements in nonpublic, nonsectarian schools, pursuant to Section 56836.21 of the Education Code.
6. Of the funds appropriated in Schedule (1), a total of \$155,858,000, plus any COLA, is available to fully fund the costs of children placed in licensed children's institutions who attend nonpublic schools based on a funding formula revised pursuant to legislation that includes pupils placed in skilled nursing facilities enacted in the 2003–04 Regular Session.

Item	Amount
<p>7. Of the amount appropriated in Schedule (2) of this item, \$686,000, plus any COLA, shall be available for infant program growth units (ages birth–two years). Funds for infant units shall be allocated pursuant to Provision 11 of this item, with the following average number of pupils per unit:</p> <p>(a) For special classes and centers—16. (b) For resource specialist programs—24. (c) For designated instructional services—16.</p> <p>8. Notwithstanding any other provision of law, early education programs for infants and toddlers shall be offered for 200 days. Funds appropriated in Schedule (2) shall be allocated by the State Department of Education for the 2004–05 fiscal year to those programs receiving allocations for instructional units pursuant to Section 56432 of the Education Code for the Early Education Program for Individuals with Exceptional Needs operated pursuant to Chapter 4.4 (commencing with Section 56425) of Part 30 of the Education Code, based on computing 200-day entitlements. Notwithstanding any other provision of law, funds in Schedule (2) shall be used only for the purposes specified in Provisions 10 and 11 of this item.</p> <p>9. Notwithstanding any other provision of law, state funds appropriated in Schedule (2) of this item in excess of the amount necessary to fund the deficiated entitlements pursuant to Section 56432 of the Education Code and Provision 10 of this item shall be available for allocation by the State Department of Education to local educational agencies for the operation of programs serving solely low-incidence infants and toddlers pursuant to Title 14 (commencing with Section 95000) of the Government Code. These funds shall be allocated to each local educational agency for each solely low-incidence child through age two in excess of the number of solely low-incidence children through age two served by the local educational agency during the 1992–93 fiscal year and reported on the April 1993 pupil count. These funds shall only be allocated if the amount of reimbursement received from the State Department of Developmental Services is insufficient to fully fund</p>	

Item

Amount

- the costs of operating the Early Intervention Program, as authorized by Title 14 (commencing with Section 95000) of the Government Code.
10. The State Department of Education, through coordination with the SELPAs, shall ensure local interagency coordination and collaboration in the provision of early intervention services, including local training activities, child-find activities, public awareness, and the family resource center activities.
 11. Funds appropriated in this item, unless otherwise specified, are available for the sole purpose of funding 2004–05 special education program costs and shall not be used to fund any prior year adjustments, claims or costs.
 12. Of the amount provided in Schedule (1), \$158,000, plus any COLA, shall be available to fully fund the declining enrollment of necessary small SELPAs pursuant to Chapter 551 of the Statutes of 2001 (AB 303).
 14. Of the funds appropriated in Schedule (1), up to \$1,000,000 may be used to fund licensed children's institution growth pursuant to Section 56836.18 of the Education Code.
 15. Pursuant to Section 56427 of the Education Code, of the funds appropriated in Schedule (1) of this item, up to \$2,324,000 may be used to provide funding for infant programs, and may be used for those programs that do not qualify for funding pursuant to Section 56432 of the Education Code.
 16. Of the funds appropriated in Schedule (1) of this item, \$29,475,000 shall be allocated to local education agencies for the purposes of Project Workability I.
 17. Of the funds appropriated in Schedule (1) of this item, \$1,700,000 shall be used to provide specialized services to pupils with low-incidence disabilities, as defined in Section 56026.5 of the Education Code.
 18. Of the funds appropriated in Schedule (1) of this item, up to \$1,117,000 shall be used for a personnel development program. This program shall include state-sponsored staff development, local in-service components, bilingual, student study team, and core curriculum components.

Item	Amount
20. Of the amount specified in Schedule (1) of this item, \$31,000,000 shall be used to provide mental health services required by an individual education plan pursuant to the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) and pursuant to legislation enacted in the 2003–04 Regular Session that clarifies the manner in which the services are to be provided.	
19. Of the funds appropriated in Schedule (1) of this item, up to \$200,000 shall be used for research and training in cross-cultural assessments.	
6110-161-0890—For local assistance, Department of Education, payable from the Federal Trust Fund, Program 10.60-Special Education Programs for Exceptional Children.....	1,091,674,000
Schedule:	
(1) 10.60.050.012-Local Agency Entitlements, IDEA Special Education	937,195,000
(2) 10.60.050.013-State Agency Entitlements, IDEA Special Education.....	1,791,000
(3) 10.60.050.015-IDEA, Local Entitlements, Preschool Program	34,792,000
(4) 10.60.050.021-IDEA, Capacity Building, Special Education	72,857,000
(5) 10.60.050.030-P.L. 99-457, Preschool Grant Program	39,767,000
(6) 10.60.050.031-IDEA, State Improvement Grant, Special Education.....	1,840,000
(7) 10.60.050.032-IDEA, Family Empowerment Centers	3,432,000
Provisions:	
1. If the funds for Part B of the federal Individuals with Disabilities Education Act that are actually received by the state exceed \$1,073,400,000, at least 95 percent of the funds received in excess of that amount shall be allocated for local entitlements and to state agencies with approved local plans. Up to five percent of the amount received in excess of \$1,073,400,000 may be used for state administrative expenses upon approval of the Department of Finance. If the funds for Part B of the federal Individuals with Disabilities Education	

Item

Amount

- Act that are actually received by the state are less than \$1,073,400,000, the reduction shall be taken in capacity building.
2. The funds appropriated in Schedule (2) shall be distributed to state-operated programs serving disabled children from 3 to 21 years of age, inclusive. In accordance with federal law, the funds appropriated in Schedules (1) and (2) shall be distributed to local and state agencies on the basis of the federal Individuals with Disabilities Education Act permanent formula.
 3. Of the funds appropriated in Schedule (4) of this item, \$2,500,000 shall be allocated directly to special education local plan areas for a personnel development program. The local in-service programs shall include a parent training component and may include a staff training component. Use of these funds shall be described in the local plans. These funds may be used to provide training in alternative dispute resolution and the local mediation of disputes. All programs are to include evaluation components.
 4. Of the funds appropriated in Schedule (4) of this item, up to \$300,000 shall be used to develop and test procedures, materials, and training for alternative dispute resolution in special education.
 5. Of the funds appropriated by Schedule (5) for the Preschool Grant Program, \$1,228,000 shall be used for in-service training and shall include a parent training component and may, in addition, include a staff training program. These funds may be used to provide training in alternative dispute resolution and the local mediation of disputes. This program shall include state-sponsored and local components.
 6. Of the funds appropriated in this item, \$1,420,000 is available for local assistance grants for the Quality Assurance and Focused Monitoring Pilot Program to monitor local education agency compliance with state and federal laws and regulations governing special education. This funding level is to be used to continue the facilitated reviews and, to the extent consistent with the key performance indicators developed by the State Department of Education, these activities focus on local educa-

Item

Amount

tion agencies identified by the United States Department of Education’s Office of Special Education Programs.

- 7. The funds appropriated in Schedule (7) shall be used for the purposes of establishing Family Empowerment Centers on Disabilities pursuant to Chapter 690, Statutes of 2001.
- 8. Notwithstanding the notification requirements listed in Section 26.00 (d) of this act, the Department of Finance is authorized to approve intraschedule transfers of funds within this item submitted by the State Department of Education for the purposes of ensuring that special education funding provided in this item is appropriated in accordance with the statutory funding formula required by federal IDEA and the special education funding formula required pursuant to Chapter 7.2 (commencing with Section 56836) of Part 30 of Division 4 of Title 2 of the Education Code, without waiting 30 days, but shall provide a notice to the Legislature each time a transfer occurs.
- 9. Of the funds appropriated in Schedule (2) of this item, \$250,000 shall be provided to districts for interpreter instruction, training, and certification. This funding shall be annually renewable for two years.
- 10. Pursuant to legislation enacted in the 2003–04 Regular Session, of the funds appropriated in Schedule (4) of this item, \$69,000,000 shall be used exclusively to support mental health services provided during the 2004–05 fiscal year by county mental health agencies pursuant to Chapter 26.5 (commencing with Section 7570) of Division 7 of the Government Code and that are included within an individualized education program pursuant to the Federal Individuals with Disabilities Education Act (IDEA).
- 11. Of the funds appropriated in Schedule (7) of this item, \$700,000 shall be used to establish four additional centers.

6110-164-0001—For local assistance, Department of Education (Proposition 98), for purposes of funding School-to-Career Partnerships, pursuant to Chapter 17 (commencing with Section 53080) of Part 28 of the Education Code

1,700,000

Item		Amount
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Provisions:

1. For purposes of the local school-to-career partnership grants, local educational agencies may elect to contract with nonprofit or private entities for providing service delivery. Funds appropriated in this item shall be used to match cash or in-kind contributions raised by local educational agencies, or nonprofit or private entities contracted by local educational agencies, for School-to-Career Partnerships. Funds may not be disbursed from this appropriation until the requesting local educational agency or contracting nonprofit entity or private entity has demonstrated to the Interagency Partnership for School-to-Career Programs that it has raised those matching funds from nonprofit and private entities equal to or exceeding the state contribution.

6110-166-0001—	For local assistance, Department of Education (Proposition 98), for transfer to Section A of the State School Fund, Program 10.70.070-Vocational Education, for the purpose of Article 5 (commencing with Section 54690) of Chapter 9 of Part 29 of the Education Code, Partnership Academies Program.....	22,999,000
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Provisions:

1. If there are any funds in this item that are not allocated for planning or operational grants, the State Department of Education may allocate those remaining funds as one-time grants to state-funded partnership academies to be used for one-time purposes.

6110-166-0890—	For local assistance, Department of Education, Program 10.70-Vocational Education, payable from the Federal Trust Fund.....	136,651,000
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Provisions:

1. The funds appropriated in this item include Federal Vocational Education Act funds for the 2004–05 fiscal year to be transferred to the community colleges by means of interagency agreements for the purpose of funding vocational education programs in community colleges.
2. The State Board of Education and the Board of Governors of the California Community Colleges shall target funds appropriated by this item to provide services to persons participating in welfare-to-work activities under the CalWORKs program.
3. The Superintendent of Public Instruction shall re-

Item	Amount
<p>port, not later than February 1 of each year, to the Joint Legislative Budget Committee and the Director of Finance, describing the amount of carryover funds from this item, reasons for the carryover, and plans to reduce the amount of carryover.</p>	
<p>6110-167-0001—For local assistance, Department of Education (Proposition 98), for transfer to Section A of the State School Fund, Program 10.70-Agricultural Vocational Educational Incentive Program established pursuant to Article 7.5 (commencing with Section 52460) of Chapter 9 of Part 28 of the Education Code</p>	4,475,000
<p>Provisions:</p>	
<p>1. As a condition of receiving funds appropriated in this item, a school district shall certify to the Superintendent of Public Instruction both of the following:</p>	
<p>(a) Agricultural Vocational Education Incentive Program funds shall be expended for the items identified in its application, except that, in items of expenditure classification 4000, only the total cost of expenses shall be required and itemization shall not be required.</p>	
<p>(b) The school district shall provide at least 50 percent of the cost of the items and costs from expenditure classification 4000, as identified in its application, from other funding sources. Nothing in this provision shall be construed to limit the authority of the Superintendent of Public Instruction to waive the local matching requirement established by subdivision (b) of Section 52461.5 of the Education Code.</p>	
<p>2. Of the funds appropriated in this item, \$41,000 is provided for increases in average daily attendance at a rate of 0.95 percent. Additionally, \$105,000 is for the purpose of providing a cost-of-living adjustment at a rate of 2.41 percent.</p>	
<p>6110-180-0890—For local assistance, Department of Education, Program 20.10.025-Educational Technology, payable from the Federal Trust Fund</p>	91,141,000
<p>Provisions:</p>	
<p>1. Of the funds appropriated in this item, \$44,373,000 is for allocation to school districts that are awarded formula grants pursuant to the federal Enhancing Education Through Technology Grant Program.</p>	

Item

Amount

- 2. Of the funds appropriated in this item, \$44,372,000 is available for competitive grants pursuant to Chapter 8.9 (commencing with Section 52295.10) of Part 28 of Division 3 of the Education Code and the requirements of the federal Enhancing Education Through Technology Grant Program—including the eligibility criteria established in federal law to target local education agencies with high numbers or percentages of children from families with incomes below the poverty line and one or more schools either qualifying for federal School Improvement or demonstrating substantial technology needs. Under no circumstances shall the legislation designate specific local education agencies as subgrant recipients.
- 3. Of the funds appropriated in this item, \$2,096,000 is available for the California Technology Assistance Project (CTAP) to provide federally required technical assistance and to help districts apply for and take full advantage of the federal Enhancing Education Through Technology grants.
- 4. Of the funds appropriated in this item, \$300,000 is available for the Technology Information Center for Administrative Leadership to assist districts and site administrators in improving the use of technology in teaching, learning, and school administration.

6110-181-0001—For local assistance, Department of Education (Proposition 98), for transfer to Section A of the State School Fund Program 20.10.025-Educational Technology programs funded pursuant to Article 15 (commencing with Section 51870) of Chapter 5 of Part 28 and Chapter 3.34 (commencing with Section 44730) of Part 25 of the Education Code

15,311,000

Provisions:

- 1. Of the funds appropriated in this item, \$141,000 is for the purpose of providing an adjustment for increases in average daily attendance at a rate of 0.95 percent. If growth funds are insufficient, the State Department of Education may adjust the per-pupil growth rates to conform to available funds.

Item	Amount
2. Of the funds appropriated in this item, \$360,000 is for the purpose of providing a cost-of-living adjustment (COLA) at a rate of 2.41 percent.	
6110-181-0140—For local assistance, Department of Education, payable from the California Environmental License Plate Fund	360,000
Schedule:	
(1) Program 20.10.055-Environmental Education	548,000
(2) Reimbursements.....	-188,000
6110-182-0001—For local assistance, Department of Education (Proposition 98), Program 20.20-Instructional Materials Management and Distribution.....	21,025,000
Provisions:	
1. The State Department of Education shall provide a grant to a lead county office of education selected on a competitive basis to implement K–12 Internet connectivity to provide high-speed Internet connectivity and network infrastructure for local education agencies. If an audit is not approved by August 31, 2004, by the Joint Legislative Audit Committee, up to \$300,000 of the total funding provided in this item shall be used by the lead agency to contract with an independent consultant selected by the lead county office using competitive procurements in consultation with the Department of Finance and the Legislative Analyst’s Office. These independent consultants shall report to the fiscal and policy committees of the Legislature and to the Department of Finance by March 1, 2005, on the following: (a) a financial audit of the K–20 Internet system currently administered by Corporation for Education Network Initiatives in California, including the components serving the higher education segments, including an assessment as to the relative shares of cost borne by the various user groups and alternative ways of assessing the costs in a fair manner, a detailed budget for the 2004–05 fiscal year, and detailed expenditure information on the Digital California Project since its inception. The audit shall identify any multi-year commitments that exist and any assets owned by the state, or any other public agency, or any nonprofit corporation in connection with the Digital California Project, (b) long-term projections of likely types of use and impacts on capacity usage and future costs, (c) cost-	

Item

Amount

- versus-benefit analyses of current common K–12 uses including both academic and administrative uses, which shall include an estimate of the cost to provide the current service level through private vendors, (d) identification of problems, and (e) recommendations for addressing these problems.
2. The lead agency shall be selected based on its ability to appropriately disburse the funds provided in this item to maintain and enhance Internet connectivity for school districts and county offices of education and arrange for and participate in the audits and studies required in Provisions 1 and 2 of this item and shall be provided 85 percent of the amount in this item by the Department of Education, after deducting \$300,000, within 90 days of the enactment of the budget. The Department of Finance shall authorize the Department of Education to the release of the remainder of the funds in this item to the lead agency upon verifying that the lead agency has submitted the following report to the fiscal and policy committees of the Legislature, the Department of Finance, and the State Department of Education. The Department of Education shall not hold back, reserve, or delay payment of any funding for this program except as provided in this provision. The status report shall be developed by the lead agency in consultation with the Department of Finance and the Legislative Analyst's Office and shall include, but not be limited to, the following information: (a) project accomplishments to date, (b) project activities underway or planned for the 2004–05 fiscal year, (c) proposed activities, including a three-year budget plan assuming current service levels, (d) the cost-effectiveness of connecting schools not currently connected as compared to other alternatives, (e) annual revenues from all sources for this project (including General Fund, E-rate, California Teleconnect fund, and other revenues), (f) expenditures to date in support of these projects (including all costs for the lead agency such as personnel, contracts, circuits, hardware, and software), (g) an estimate of the annual savings to local education agencies as a result of the project, and (h) information regarding any multi-year commitments that exist and any assets owned by the state or any other public agency in connec-

Item

Amount

tion with the Digital California Project. In the report, the lead agency also shall include descriptions of actions taken to address problems identified.

- 3. It is the intent of the Legislature that, commencing with the 2005–06 fiscal year, the funding for this program shall be governed by statute, which will provide that the program shall be overseen by a governance structure that accomplishes goals that include, but are not limited to, the following:
 - (a) development of a long-term information technology, implementation, and business plan for this project, including an analysis of the benefits and risks of integrating other statewide programs with this system, (b) ongoing cost oversight of the project, including mechanisms to control statewide costs and exposure, and (c) ongoing technical oversight of the project, including external evaluation and independent validation and verification, where appropriate.

6110-183-0890—For local assistance, Department of Education, Instructional Support—Safe and Drug Free Schools and Communities Act of 1994 (Public Law 103-382), payable from the Federal Trust Fund

52,939,000

Schedule:

- (1) 20.10.045-Health and Physical Education, Drug Free Schools 52,939,000

Provisions:

- 1. Local education agencies shall give priority in the expenditure of the funds appropriated by this item to create comprehensive drug and violence prevention programs that promote school safety, reduce the use of drugs, and create learning environments that are free of alcohol and guns and that support academic achievement for all pupils. In addition to preventing drug and alcohol use, prevention programs will respond to the crisis of violence in our schools by addressing the need to prevent serious crime, violence, and discipline problems. The Superintendent of Public Instruction shall (a) notify local education agencies of this policy, and (b) incorporate the policy into the department’s compliance review procedures.
- 2. Of the funds appropriated in this item, \$1,526,000 is available for one-time grants for drug and violence prevention and intervention services.

Item	Amount
6110-187-0001—For local assistance, Department of Education (Proposition 98), for transfer to Section A of the State School Fund, for a cost-of-living increase to be transferred to, in lieu of the amount that otherwise would be provided pursuant to statute, and in augmentation of, the respective appropriation by the Controller upon enactment in accordance with the following	787,000
Schedule:	
(1) 10.10.011.005-School Apportionments, Continuation Schools (Section 42243.7 of the Education Code)	787,000
Provisions:	
1. (a) Notwithstanding any other provision of law, the funds appropriated in Schedule (1) of this item for school apportionments to continuation schools shall be allocated on a dollar amount basis rather than as a percentage increase, and shall be allocated to any school district that operated a continuation high school in the 2003–04 fiscal year, without regard to whether that district’s program commenced on, after, or prior to July 1, 1978. The amount allocated to each school district shall be equal to the total amount appropriated by Schedule (1) of this item, divided by the total number of units of continuation high school average daily attendance (ADA) for the state at the second principal apportionment for the 2003–04 fiscal year, multiplied by the units of that ADA reported by the district for the second principal apportionment for the 2003–04 fiscal year.	
(b) The total amount allocated pursuant to subdivision (a) of this provision shall not exceed the total amount of the funds appropriated in Schedule (1) of this item.	
6110-188-0001—For local assistance, Department of Education (Proposition 98), Program 10.10-School Apportionments Deferred Maintenance, for transfer to the State School Deferred Maintenance Fund	237,802,000
Provisions:	
1. The funds appropriated in this item shall be transferred to the State School Deferred Maintenance Fund and are available for funding applications received by the Department of General Services,	

Item	Amount
Office of Public School Construction for the purpose of payments to school districts for deferred maintenance projects pursuant to Section 17584 of the Education Code.	
6110-189-0001—For local assistance, Department of Education (Proposition 98), for transfer to Instructional Materials Fund.....	363,000,000
Schedule:	
(1) 20.20.020.005-Instructional Materials Block Grant.....	363,000,000
Provisions:	
1. The funds in this item shall be allocated to school districts to purchase standards aligned instructional materials, pursuant to Chapter 802 of the Statutes of 2002.	
2. (a) Of the funds appropriated in this item, \$30,000,000 shall be available on a one-time basis to provide supplemental instructional materials specifically for English language learners in Kindergarten and grades 1 to 12, inclusive. The purpose of these materials will be to accelerate pupils as rapidly as possible towards grade level proficiency. These funds shall be available for encumbrance by local education agencies until June 30, 2006. The funds shall be used to purchase supplemental materials that are designed to help English language learners become proficient in reading, writing, and speaking English. These materials may only be used in addition to the standards-aligned materials adopted by the State Board of Education pursuant to Section 60605 of the Education Code.	
(b) Local education agencies shall be eligible for apportionment funding of up to \$25 per pupil, based on the most recently certified language census number of English language learners in Kindergarten and grades 1 to 12, inclusive, to purchase any materials that the State Department of Education verifies and the State Board of Education approves are substantially correlated to identified state standards adopted pursuant to Section 60811 of the Education Code, as applied in the standards adopted pursuant to Section 60605 of the Education Code. Funding may be provided only for the number of pupils that the local	

Item

Amount

- education agency certifies it will purchase materials for pursuant to subdivision (e). Local education agencies may expend no more than \$30 per pupil from these funds for these materials. Local education agencies shall return to the state any funds allocated under this subdivision that are not expended for purchase of materials pursuant to this provision.
- (c) The department shall develop a correlation matrix that shall be used to determine if the instructional materials correlate to the standards adopted by the State Board of Education. The contents of the matrix will be divided into the English language development levels of proficiency (for example, beginning, advanced) and indicate how the English language development standards will be used to provide a path to obtaining grade level skills in reading, writing, and speaking. The department, with input from the State Board of Education, shall assign individuals with demonstrated expertise in English language development and the education of English language learners to the task of developing the correlation matrix. The department shall not assign the development of the correlation matrix to the Curriculum Development and Supplemental Materials Commission established pursuant to Section 33530 of the Education Code.
- (d) Prior to submission of materials to the department for verification that the materials correlate to identified standards, publishers shall be required to submit standards maps to the department and any requesting local education agency so that the department and the local education agency can determine the extent to which each item, if purchased separately, or set of instructional materials for English language learners are correlated to the standards adopted by the State Board of Education. The standards maps shall be filled out using the most recent format approved by the State Board of Education. The contents for the standards map will be the correlation matrix as described in subdivision (c).

Item

Amount

- (e) As a condition of receipt of funds, local education agencies that elect to participate shall do both of the following: (1) no later than March 31, 2005, submit an intent to purchase, specifying the title, ISBN number, grade levels, type, and publisher of the materials they intend to purchase, and the number of pupils for which materials will be purchased; and (2) certify that materials they intend to purchase are substantially correlated to support the identified state standards and adopted materials, and shall submit this certification to the department.
- (f) After a local education agency notifies the department that it intends to purchase materials, the department may select and train panels of teachers and educators to verify the standards maps provided by the publishers and examine the materials for legal and social compliance. The department will also provide an appeals process to allow due process review of discrepancies of findings in the verification process. The department’s verification shall not constitute a state adoption of instructional materials pursuant to Section 60200 of the Education Code. The department shall give first priority in verifying correlation to identified state standards to those materials that are most commonly cited in districts’ intents to purchase provided under subdivision (e). The department shall submit its verification results to the State Board of Education for approval and the State Board of Education shall approve or disapprove the materials at the next regularly scheduled meeting after receipt of the department’s verification, in accordance with public notification requirements.

6110-190-0001—For local assistance, Department of Education (Proposition 98), Program 10.10-School Apportionments, Community Day Schools 40,502,000
 Provisions:

- 1. The funds appropriated in this item are for transfer to Section A of the State School Fund to reimburse costs incurred pursuant to Chapter 974 of the Statutes of 1995 as amended by Chapter 847 of the Statutes of 1998.

Item	Amount
<ul style="list-style-type: none"> 2. Funds appropriated in this item shall not be available for the purposes of Section 41972 of the Education Code. 3. Of the funds appropriated in this item, \$669,000 is for the purpose of providing a cost-of-living adjustment (COLA) at a rate of 2.41 percent to community day schools in lieu of the amount that would otherwise be provided pursuant to subdivision (b) of Section 42238.1 of the Education Code. 4. An additional \$4,558,000 in expenditures for this item has been deferred until the 2005–06 fiscal year. 	
<p>6110-191-0001—For local assistance, State Department of Education (Proposition 98), for transfer to Section A of the State School Fund, Program 20.60.050.002-Beginning Teacher Support and Assessment Program</p>	80,892,000
<p>Provisions:</p> <ul style="list-style-type: none"> 1. The funds appropriated in this item are for direct disbursement by the State Department of Education 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. These funds shall be expended only after development of a program and expenditure plan by the State Department of Education, and approval of the plan by the Department of Finance. 2. Funds appropriated in this item are for the purpose of providing grants to support 22,000 teachers throughout local Beginning Teacher Support and Assessment Programs. 4. It is the intent of the Legislature that first-year holders of preliminary teaching credentials, as defined in subdivision (b) of Section 44259 of the Education Code, be afforded first priority for funding appropriated in this item. To the extent that any funds appropriated in this item remain after all first-year holders of preliminary teaching credentials have been served, those funds may be used to serve second-year holders of preliminary teaching credentials. 5. If funds are insufficient to service all second-year holders of preliminary teaching credentials, the State Department of Education shall prorate the 	

Item	Amount
<ul style="list-style-type: none"> funds to conform to the amount remaining in this item, consistent with Provision 4 of this item. 6. Of the funds appropriated in this item, \$1,825,000 is provided for a cost-of-living adjustment at a rate of 2.41 percent, for a total per participant grant level of \$3,526. 	
6110-193-0001—For local assistance, State Department of Education (Proposition 98), for transfer to Section A of the State School Fund, Program 20.60-Staff Development	28,237,000
Schedule:	
(1) 20.60.070-Bilingual Teacher Training Assistance Program	1,859,000
(2) 20.60.060-Instructional Support: Teacher Peer Review.....	26,029,000
(3) 20.60.110-Instructional Support: Improving School Effectiveness-Reader Services for Blind Teachers	349,000
Provisions:	
<ul style="list-style-type: none"> 1. The funds appropriated in this item are for transfer by the Controller 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 educational agencies for purposes of the Proposition 98 programs funded in this item, in lieu of the amounts otherwise provided for those programs by statute. 2. Notwithstanding any other provision of law, the amount appropriated in Schedule (1) shall be the maximum amount allocated for the purposes of the Bilingual Teacher Training Assistance Program established by Article 4 (commencing with Section 52180) of Chapter 7 of Part 28 of Division 4 of Title 2 of the Education Code. 2.5 Of the funds appropriated in Schedule (1) of this item, \$17,000 is provided for increases in average daily attendance at a rate of 0.95 percent. If growth funds are insufficient, the State Department of Education may adjust the per-pupil growth rates to conform to available funds. Additionally, \$44,000 is for the purpose of providing a cost-of-living adjustment at a rate of 2.41 percent. 3. The funds appropriated in Schedule (2) shall be allocated in accordance with Article 4.5 (commencing with Section 44500) of Chapter 3 of Part 	

Item

Amount

25 of Division 3 of Title 2 of the Education Code. Funds appropriated in Schedule (2) include \$239,000 for the purpose of making adjustments for increases in average daily attendance at a rate of 0.95 percent. If growth funds are insufficient, the State Department of Education may adjust the per-pupil growth rates to conform to available funds. Additionally, \$613,000 is for the purpose of providing a cost-of-living adjustment at a rate of 2.41 percent.

- 4. Notwithstanding any other provision of law, the amount appropriated in Schedule (3) shall be the maximum amount allocated for the purposes of the Reader Services for Blind Teachers, for transfer to the Reader Employment Fund established by Section 45371 of the Education Code for the purposes of Section 44925 of the Education Code.
- 5. Of the funds appropriated in Schedule (3) of this item, \$3,000 is provided for increases in average daily attendance at a rate of 0.95 percent. If growth funds are insufficient, the State Department of Education may adjust the per-pupil growth rates to conform to available funds. Additionally, \$8,000 is for the purpose of providing a cost-of-living adjustment at a rate of 2.41 percent.

6110-193-0890—For local assistance, Department of Education, Program 20.60-Instructional Support, Title II, Part B of the Elementary and Secondary Education Act (Mathematics and Science Partnership Grants) payable from the Federal Trust Fund .. 20,279,000

6110-195-0001—For local assistance, Department of Education (Proposition 98), Program 20.60.140-Staff Development: Teacher improvement, Teacher Incentives National Board Certification 7,535,000
Provisions:

- 1. The funds appropriated in this item shall be for the purpose of providing incentive grants to teachers with certification by the National Board for Professional Teaching Standards that are teaching in low-performing schools pursuant to Article 13 (commencing with Section 44395) of Chapter 2 of Part 25 of the Education Code.

Item	Amount
6110-195-0890—For local assistance, Department of Education, Program 20.60-Instructional Support, Title II, Part A of the Elementary and Secondary Education Act (Teacher and Principal Training and Recruiting Fund), payable from the Federal Trust Fund	330,286,000

Schedule:

- (1) 20.60.280-Improving Teacher Quality Local Grants.....324,382,000
- (2) 20.60.270-Principal Training Program..... 1,554,000
- (3) 20.60.190.300-California Subject Matter Projects 4,350,000

Provisions:

- 1. The funds appropriated in Schedule (2) of this item shall be for the Principal Training Program authorized pursuant to Article 4.6 (commencing with Section 44510) of Chapter 3 of Part 25 of the Education Code.
- 2. The funds appropriated in Schedule (3) of this item shall be for transfer to the University of California, which shall use the funds for the Science Subject Matter Projects.
- 3. Of the funds appropriated in Schedule (1) of this item, \$197,000 in one-time carryover funds shall be for transfer to the Commission on Teacher Credentialing through an interagency agreement for the completion of data collection and evaluation related to the effectiveness of professional development programs.

6110-196-0001—For local assistance, Department of Education (Proposition 98), for transfer by the Controller 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 for the purposes of Proposition 98 educational programs funded in this item, in lieu of the amount that otherwise would be appropriated pursuant to any other statute	1,097,357,000
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Schedule:

- (1) 30.10.010-Special Program, Child Development, Preschool Education..... 313,883,000
- (1.5) 30.10.020-Child Care Services 1,612,656,000

Item	Amount
(a) 30.10.020.001- Special Program, Child Develop- ment, General Child Develop- ment Programs..	590,703,000
(b) 30.10.020.002-Spe- cial Program, Child Develop- ment, Community College Match— Required Center ...	3,173,000
(c) 30.10.020.004-Spe- cial Program, Child Develop- ment, Migrant Day Care	32,516,000
(d) 30.10.020.007- Special Program, Child Develop- ment, Alterna- tive Payment Pro- gram.....	173,090,000
(e) 30.10.020.011-Spe- cial Program, Child Develop- ment, Alternative Payment Pro- gram—Stage 2..	356,955,000
(f) 30.10.020.012-Spe- cial Program, Child Develop- ment, Alternative Payment Pro- gram—Stage 3 Setaside	331,347,000
(g) 30.10.020.008- Special Program, Child Develop- ment, Resource and Referral.....	16,448,000
(h) 30.10.020.009- Special Program, Child Develop- ment, Campus Child Care Tax Bailout	5,784,000

Item	Amount
(i) 30.10.020.015-Special Program, Child Development, Extended Day Care	25,837,000
(j) 30.10.020.096-Special Program, Child Development, Allowance for Handicapped.....	1,559,000
(k) 30.10.020.106-Special Program, Child Development, California Child Care Initiative.....	250,000
(l) 30.10.020.901-Special Program, Child Development, Quality Improvement.....	69,379,000
(m) 30.10.020.920-Special Program, Child Development, Local Planning Councils	5,615,000
(3) 30.10.020.908-Special Program, Child Development, Cost-of-Living Adjustments	29,473,000
(4) 30.10.020.909-Special Program, Child Development, Growth Adjustments	15,804,000
(5) Amount payable from the Federal Trust Fund (Item 6110-196-0890)	-874,459,000

Provisions:

1. Notwithstanding Section 8278 of the Education Code, funds available for expenditure pursuant to Section 8278 of the Education Code shall be expended in the 2004–05 fiscal year pursuant to the following schedule:
 - (a) \$4,000,000 or whatever lesser or greater amount is necessary for accounts payable pursuant to paragraph (1) of subdivision (b) of Section 8278 of the Education Code.

Item

Amount

- (b) \$101,015,000 shall be available for CalWORKs Stage 2 child care.
 - (e) The Controller shall establish an account entitled Section 8278 Expenditures in 2003 in Item 6110-196-0001, Program 30.10.060. Any unexpended General Fund balances as of June 30, 2004, or subsequent abatements, from those amounts listed in Schedules (1), (1.5)(a), (1.5)(b), (1.5)(c), (1.5)(d), (1.5)(g), (1.5)(h), (1.5)(i), (1.5)(j), (1.5)(k), (1.5)(l), and (1.5)(m) of this item, that are available pursuant to Section 8278 of the Education Code, shall be transferred to the account for the purpose of making expenditures pursuant to that section and as specified in this provision.
2. The State Department of Education shall report to the Joint Legislative Budget Committee and the Department of Finance, by March 31, 2005, the amount of child development funds, by program, that have been determined after audit to be unearned. The report shall include the settlement of claims payable by program from unearned contract fund balances. This provision includes both Federal Fund and General Fund contracts.
 4. (a) Notwithstanding any other provision of law, alternative payment child care programs shall be subject to the rate ceilings established in the Regional Market Rate Survey of California child care and development providers for provider payments. The SDE shall utilize a federal fund contract, to be awarded through a competitive bid process, to conduct a market rate survey. A summary report and analyses of changes in mean and ceiling rates, adjustment factors, and region rates shall be forwarded to the Department of Finance along with the mean and ceiling rates. The contract shall also provide resources sufficient for the contractor to respond to requests for related information by the Department of Finance. Any changes to the market rate limits, adjustment factors or regions are subject to the approval process for child care contract funding terms and conditions as specified in Section 8447 of the Education Code. When approved, those changes

Item

Amount

shall be utilized by the SDE and DSS in various programs under the jurisdiction of both departments to determine limits of reimbursement to providers.

- (b) Notwithstanding any other provision of law, the funds appropriated in this item for the cost of child care services provided through alternative payment or voucher programs including those provided under Article 3 (commencing with Section 8220) and Article 15.5 (commencing with Section 8350) of Chapter 2 of Part 6 of the Education Code shall be used only to reimburse child care costs up to the 85th percentile of the rates charged by providers offering the same type of child care for the same age child in that region.
5. The funds appropriated in this item for campus child care tax bailout shall be allocated by the State Department of Education based on a schedule provided by the Chancellor of the California Community Colleges. The chancellor shall schedule the allocation of these funds to community college districts that levied child care permissive override taxes in the 1977–78 fiscal year pursuant to Sections 8329 and 8330 of the Education Code in an amount equal to the property tax revenues, tax relief subventions, and state aid required to be made available by the district to its child care and development program for the 1979–80 fiscal year pursuant to Section 30 of Chapter 1035 of the Statutes of 1979, increased by any cost-of-living increases granted in subsequent fiscal years. These funds shall be used only for the purpose of community college child care and development programs.
6. Notwithstanding any provision of law, higher educational institutions may establish and maintain child development programs on or near their respective campuses with priority for services given to children of students of that campus. Those higher educational institutions under contract with the State Department of Education for child care and development services shall be subject to the rules and regulations adopted by the Superintendent of Public Instruction, except where those rules and regulations differ with re-

Item	Amount
<p>pect to the conditions specified for the community colleges in Provision 14 of Item 6870-101-0001.</p> <p>7. Funds in Schedule (1.5) (1) of this item, shall be reserved for activities to improve the quality and availability of child care, pursuant to the following:</p> <p>(a) \$2,067,000 is for the schoolage care and resource and referral earmark.</p> <p>(b) \$11,656,000 is for the infant and toddler earmark and shall be used for increasing the supply of quality child care for infants and toddlers. Notwithstanding any other provision of law, expenditure plans and contract provisions for awarding these funds shall give high, but not exclusive, priority to the development of new family day care home providers, especially those who offer care during nontraditional hours such as weekends, evenings, and nights and who offer care for special needs children.</p> <p>(c) \$9,044,000 in one-time federal funding is available to continue dissemination and training efforts for the Pre-Kindergarten guidelines and curriculum, health and safety training, and other programs to improve the quality of care provided by licensed and license-exempt providers. It is intended that these expenditures also be available for activities related to the development and implementation of quality standards established for individuals receiving reimbursements through voucher programs. Notwithstanding any other provision of law, these funds shall be available for expenditure until June 30, 2006.</p> <p>(d) From the remaining funds, the following amounts shall be allocated for the following purposes: \$4,000,000 to train former CalWORKs recipients as child care teachers; \$2,700,000 for contracting with the Department of Social Services for increased inspections of child care facilities; \$1,200,000 for Trustline registration workload (Chapter 3.35 (commencing with Section 1596.60) of Division 2 of the Health and Safety Code); \$500,000 for health and safety training for li-</p>	

Item

Amount

- censed and exempt child care providers; \$320,000 for the Child Development Training Consortium; \$300,000 for the Health Hotline; and \$300,000 to implement a technical assistance program to child care providers in accessing financing for renovation, expansion, and/or construction of child care facilities.
- (e) The State Department of Education shall allocate \$425,000 to preschool education projects, including, but not limited to, those operated by the public television stations in Redding, Sacramento, San Francisco, San Jose, Los Angeles, Fresno, and San Diego. Of this amount, the department shall allocate up to \$320,000 to public television stations in Redding, Sacramento, San Francisco, San Jose, and Los Angeles, based upon the satisfaction by the projects operated by the public television stations in each of those cities of all of the following criteria: (1) the 30 percent minimum match; (2) a plan that identifies the providers to be trained; (3) number of trainers to be trained; (4) the quality of the training offered; (5) linkages to the child care community; and (6) cost-effectiveness. The balance of the \$425,000 identified in this subdivision shall be made available to support projects in Fresno and San Diego, based upon the determination by the State Department of Education of the satisfaction by the projects operated by the public television station in each of those cities of the criteria set forth in (1) to (6), inclusive, of this subdivision.
- (f) \$30,000 shall be made available for a preschool public television project in Eureka.
- (g) As required by federal law, the State Department of Education shall develop an expenditure plan that sets forth the final priorities and the reasons therefor if the final priorities are different from those approved in response to the reporting requirement contained in Provision 7(g) of Item 6110-196-0001 of Section 2.00 of the Budget Act of 2002 (Ch. 379, Stats. 2002). This plan shall be submitted to the Department of Finance by January 1, 2005, and funds shall not be encumbered

Item

Amount

- prior to approval of the plan by the Department of Finance. The State Department of Education shall coordinate with the Department of Social Services, the California Children and Families State Commission, and other applicable entities to identify annual statewide expenditures for quality enhancements which qualify for meeting federal requirements, and shall reference these expenditures in its biennial federal quality plans or any subsequent amendments.
- (h) The department shall establish expenditure priorities for the 2005–06 fiscal year that set forth the proposed state and local activities to improve child care, including the reasons therefor, to be undertaken in the 2005–06 fiscal year. This plan shall be submitted in a format developed in consultation with the Department of Finance and shall be submitted to the Department of Finance and to the fiscal committees of both houses of the Legislature at least 30 days prior to the commencement of public hearings on the proposed plan and no later than March 1, 2005.
- (i) \$15,000,000 from the General Fund shall be for child care worker recruitment and retention programs as specified by Chapter 547 of the Statutes of 2000.
8. (a) The department shall maintain an improved allocation, contracting, and reimbursement system for CalWORKs Stage 2 and Stage 3 Setaside funding to ensure funds are distributed in proportion to statewide needs. These needs shall recognize attrition experience and family fees collected at the local level which shall be counted toward the funding available to meet those needs. The department shall conduct monthly analyses of caseloads and expenditures and adjust agency contract maximum reimbursement amounts and allocations as necessary to ensure funds are distributed proportional to need. The department shall share monthly caseload analyses with the Department of Social Services (DSS).
- (b) The department shall provide quarterly reports on the sufficiency of funding for Stage 2 and Stage 3 Setaside to the Department of Fi-

Item

Amount

nance, the DSS, and the Legislative Analyst's Office. The department shall provide case-loads, expenditures, allocations, unit costs, family fees, and other key variables and assumptions used in determining the sufficiency of state allocations. Detailed backup by month and on a county-by-county basis shall be provided to the DSS at least on a quarterly basis for comparisons with Stage 1 trends.

- (c) Any request from the Temporary Assistance to Needy Families (TANF) reserve shall be based on the information and analyses pursuant to the preceding paragraphs and shall be made jointly and coordinated with the DSS to eliminate duplication. In order to facilitate coordination, detailed backup by month and on a county-by-county basis, if different from quarterly data provided pursuant to the previous paragraph, shall be provided to the DSS to facilitate its analyses and comparison of overall CalWORKs caseloads and related child care needs.
- (d) By September 15, 2004, and March 15, 2005, the department shall ensure that detailed caseload and expenditure data, through the most recent period for Stage 2 and Stage 3 Setaside along with all relevant assumptions, is provided to DSS to facilitate budget development and the May Revision, respectively. The detailed data provided shall include actual and projected monthly caseload from Stage 2 scheduled to time off of their transitional child care benefit from the last actual month reported by agencies through the 2006–07 fiscal year as well as local attrition experience. DSS shall utilize data provided by the department, including key variables from the prior fiscal year and the first two months of the 2004–05 fiscal year, to provide coordinated estimates in November 2004 for each of the three stages of care for preparation of the 2005–06 Governor's Budget, and shall utilize data from at least the first two quarters of the 2004–05 fiscal year, and any additional months' data as they become available for preparation of the 2005 May Revision. DSS

Item

Amount

- shall share its assumptions and methodology with SDE in the preparation of the 2005–06 Governor’s Budget.
- (e) As deemed necessary by the department for counties where there is more than one Alternative Payment Program participating in CalWORKs child care programs, county welfare departments shall participate jointly with the Alternative Payment Programs, as applicable, to jointly determine the amount of funds initially distributed to each Alternative Payment Program. However, the department may adjust these allocations at any time for providers deemed by the department to be on conditional status and shall adjust the allocations as necessary to ensure a distribution of funding proportional to each alternative payment provider’s documented need pursuant to the analysis specified in this provision.
- (f) Upon request by the Department of Finance, the department shall determine, through survey or mandatory reporting, and through use of consultant services as necessary, requested information (such as selected updates of data collected pursuant to Provision 8(c)(6) of the Budget Act of 2000 (Ch. 52, Stats. 2000)) which shall be provided to the Department of Finance for use in 2005–06 budget development.
- (g) The department shall coordinate with the DSS to identify annual general subsidized child care program expenditures for TANF-eligible children. The department shall modify existing reporting forms to capture this data.
- (h) The State Department of Education shall provide to the Department of Social Services, upon request, access to the information and data elements necessary to comply with federal reporting requirements and any other information deemed necessary to improve estimation of child care budgeting needs.
9. Notwithstanding any other provision of law, the funds in Schedule (1.5)(f) for Stage 3 Setaside are reserved exclusively for continuing child care for (1) former CalWORKs families who are working, have left cash aid and have exhausted their two-

Item

Amount

- year eligibility for transitional services in either Stage 1 or 2 pursuant to subdivision (c) of Section 8351 or 8353 of the Education Code, respectively, but still meet eligibility requirements for receipt of subsidized child care services; and (2) families who received lump-sum diversion payments or diversion services under Section 11266.5 of the Welfare and Institutions Code and have spent two years in Stage 2 off of cash aid, but still meet eligibility requirements for receipt of subsidized child care services.
10. Nonfederal funds appropriated by this item 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) shall only be expended on behalf of CalWORKs recipients and may not be expended in any way that would cause their disqualification as a federally allowable maintenance-of-effort expenditure.
 11. Administrative and support services allowances for the Alternative Payment, Stage 2, and Stage 3 Setaside child care programs funded through Schedules (1.5)(d), (1.5)(e), and (1.5)(f) of this item, shall be limited to no more than 23.4568 percent of the direct cost-of-care payments to child care providers.
 12. Notwithstanding Section 26.00 of this act, the funds appropriated in Schedule (3) of this item, for child development cost-of-living adjustments, are for allocation among Schedules (1), (1.5)(a), (1.5)(b), (1.5)(c), (1.5)(d), (1.5)(g), (1.5)(h), (1.5)(i), (1.5)(j), and (1.5)(m) within this item. Funds shall not be allocated to programs prior to approval of a budget revision by the Department of Finance. After allocation of the 2004-05 COLA, the maximum standard reimbursement rate shall not exceed \$28.82 per day for General Child Care programs and \$18.39 per day for State Preschool. Furthermore, the Community College Match, the Migrant Child Care, and the Cal-SAFE Child Care programs shall adhere to the maximum standard reimbursement rates as prescribed for the General Child Care programs. All other rates and adjustment factors shall be revised to conform.

Item

Amount

13. Notwithstanding Section 26.00 of this act, the funds appropriated in Schedule (4) of this item, for child development growth adjustments, are for allocation among Schedules (1), (1.5)(a), (1.5)(b), (1.5)(c), (1.5)(d), (1.5)(i), and (1.5)(j) within this item. Funds shall not be allocated to programs prior to approval of a budget revision by the Department of Finance.
14. (a) Notwithstanding any other provision of law, funds appropriated in this item shall not be used to provide child care and development services to children over the age of 12, except for children with exceptional needs, children participating in the After School Education and Safety Program or the Six-to-Six Before and After School Program provided in Article 22.5 (commencing with Section 8482) and Article 23.4 (commencing with Section 8488.5) of Chapter 2 of Part 6 of the Education Code.
(b) Notwithstanding any other provision of law, the funds appropriated in this item shall not be used to provide child care services to grandfathered families eligible only under subdivision (b) of Section 8263.1 of the Education Code.
(c) Notwithstanding any other provision of law, the income eligibility limits pursuant to subdivision (a) of Section 8263.1 of the Education Code used in the 2003–04 fiscal year shall remain in effect for the 2004–05 fiscal year.
15. Notwithstanding any other provision of law, it is the intent of the Legislature that unearned contract amounts appropriated for CalWORKs Stage 2 and Stage 3 Setaside in any prior year be used to offset direct services costs in CalWORKs Stage 2 child care in each subsequent year. Therefore, in order to account for these funds in determining the budget, the Department of Education shall disencumber any amounts in excess of a two-percent reserve of the original contract amount for each unaudited contract and shall provide a report by September 1, 2004, and April 1, 2005, of the available balances to the Department of Finance. The Department of Edu-

Item

Amount

cation shall ensure child care audits are closed out in a timely fashion to ensure savings are available in the fiscal year budget following initial appropriation.

- 16. Notwithstanding any other provision of law, the Superintendent of Public Instruction may, upon request by a program that is earning the full grant amount, waive the funding caps for core grants for elementary, middle, and junior high school students to allow expenditure of any uncommitted funds that are available to enable those programs to create additional slots for 11- and 12-year-old pupils and their eligible younger siblings redirected from state-funded and federally funded subsidized child care programs pursuant to Section 8263.4 of the Education Code.

6110-196-0890—For local assistance, Department of Education, payable from the Federal Trust Fund.....

874,459,000

Provisions:

- 1. Notwithstanding any other provision of law, the funds appropriated in this item, to the extent permissible under federal law, are subject to Section 8262 of the Education Code.
- 2. The funds appropriated in this item include the federal Child Care and Development Block Grant and are contingent upon receipt of that federal grant.
- 3. Of the funds appropriated in this item, \$315,203,000 is from the transfer of funds from the federal Temporary Assistance for Needy Families (TANF) Block Grant administered by the State Department of Social Services to the federal Child Care and Development Block Grant for Stage 2 child care. This amount may be increased by transfer from the TANF reserve pursuant to Item 5180-403 of this act, except that funds may not be first transferred to the Child Care Development Block Grant if those transfers result in an increase to the federal quality requirements beyond the level currently budgeted for quality activities.
- 4. Of the funds appropriated in this item, \$1,061,000 is available on a one-time basis for Stage 3 child care. This funding reflects funds made available on a one-time basis by a federal reallocation.

Item	Amount
5. Of the funds appropriated in this item, \$45,553,000 is available on a one-time basis for Stage 3 and \$2,100,000 is available on a one-time basis for Stage 2 from federal Child Care and Development Block Grant funds appropriated prior to the 2004 federal fiscal year.	
6. Of the funds appropriated in this item, \$9,044,000 is available on a one-time basis for quality projects from federal Child Care and Development Block Grant funds appropriated prior to the 2004 federal fiscal year.	
6110-197-0001—For local assistance, Department of Education (Proposition 98), Program 20.60.100—Instructional Support-Improving School Effectiveness—Intersegmental Programs.....	2,091,000
Provisions:	
1. The funds appropriated by this item are for transfer by the Controller 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 educational agencies for purposes of the Proposition 98 programs in this item, in lieu of the amounts otherwise provided for those programs by statute.	
2. Of the amount appropriated in this item, \$19,000 is provided for increases in average daily attendance at a rate of 0.95 percent. If an amount to fund growth is insufficient, the State Department of Education may adjust the per-pupil growth rates to reflect available funds. Additionally, \$49,000 is for the purpose of providing a cost-of-living adjustment at a rate of 2.41 percent.	
6110-197-0890—For local assistance, Department of Education, payable from the Federal Trust Fund, 21st Century Community Learning Centers Program	162,757,000
Schedule:	
(1) 30.10.080-Special Program, Child Development, 21st Century Community Learning Centers Program.....	162,757,000
Provisions:	
1. (a) It is the intent of the Legislature that the department give significant weight in rating applications, reallocations of available funding and in approving use of grant carryover amounts to the level of student participation	

Item

Amount

and cost per student served. Approval of use of carryover funds from year to year for programs receiving grants shall ensure that additional participation be required so as to not increase the cost per student served in the fiscal year in which grant funds are expended. The department shall also track cost per student planned versus actually achieved and actively ensure that each grant maximizes student participation in relation to the level of the annual grant or shall reduce grant amounts accordingly in subsequent years.

- (b) The department shall provide an annual report to the Legislature and Department of Finance by September 1 of each year that identifies by cohort for the previous fiscal year each high school program funded, the amount of the annual grant and actual funds expended, the numbers of students served and planned to be served, and the average cost per student per day. If the average cost per student per day exceeds \$10 per day, the department shall provide specific reasons why the costs are justified and cannot be reduced. In calculating cost per student per day, the department shall not count attendance unless the student is under the direct supervision of after school program staff funded through the grant. Additionally, the department shall calculate cost per day on the basis of the equivalent of a three-hour day for 180 days per school year. The department shall also identify for each program, as applicable, if the attendance of students is restricted to any particular subgroup of students at the school in which the program is located. If such restrictions exist, the department shall provide an explanation of the circumstances and necessity therefor.
2. The State Department of Education (SDE) shall provide a report to the Department of Finance (DOF), the budget committees of each house of the Legislature, and the Legislative Analyst's Office (LAO) by October 15, 2004, on the requests and awards of direct grants pursuant to Article 22.6 (commencing with Section 8484.7) of Chapter 2 of Part 6 of the Education Code, the 21st Century Community Learning Centers Program.

Item

Amount

- The report shall include, but not be limited to, the purposes of the direct grants awarded, the amount requested and the subsequent awards received. The report shall also include the number of applications and awards, both core and direct grants, categorized by public and private high schools, then by school type (elementary, middle, or junior high schools) as well as information identifying those grantees that have been awarded funding through both the state-funded and the federally-funded program. In addition, SDE shall report to DOF, the budget committees of each house of the Legislature, and the LAO by May 1, 2005, on the effectiveness of 21st Century Community Learning Centers Program operated by private schools.
3. The provisions of this item shall become inoperative in the event federal funds are not made available for this purpose. It is the intent of the Legislature that the provisions of this item not be considered a precedent for General Fund augmentation of either this state-administered, federally funded program or any state-funded before or after school program.
 4. Of the amount appropriated in this item, \$60,410,000 is new ongoing federal 21st Century Community Learning Centers Program funds, \$782,000 is one-time reallocated federal funds, and \$608,000 is one-time federal carryover funds. Of the ongoing funds, \$5,000,000 shall be used for high school grants, and \$47,977,000 shall be used for elementary, middle, and junior high school grants, with priority placed on increasing the number of slots available for 11- and 12-year-olds and their eligible younger siblings in order to accommodate them in after-school programs rather than subsidized child care programs pursuant to Section 8263.4 of the Education Code.
 - (b) Notwithstanding any other provision of law, the Superintendent of Public Instruction may, upon request by a program that is earning the full grant amount, waive the funding caps for core grants for elementary, middle, and junior high schools to enable those programs to create additional slots for 11- and 12-year-old pupils and their eligible younger siblings pursuant to subdivision (a).

Item

Amount

- (c) Of the funds remaining in subdivision (a) after the allocations pursuant to that subdivision, \$2,118,000 shall be for technical assistance grants, \$5,195,000 shall be for access grants, and \$1,510,000 shall be for literacy grants.
 - 5. (a) Of the amount appropriated in this item, \$25,430,000 is available on a one-time basis, of which \$488,000 is one-time federal reallocated funds, and the remaining \$24,942,000 is carryover of program savings. \$20,000,000 of these funds shall be expended in priority order as follows, to: (1) increase core grant caps for those programs that are at or above their maximum amount to provide additional slots for 11- and 12-year-olds and their eligible younger siblings; (2) expand existing grants to allow programs to offer summer, vacation, and intercession programs thus increasing the number of program days of operation, and (3) increase core grant caps for programs above their maximum amount or with waiting lists. Notwithstanding any other provision of law, the Superintendent of Public Instruction may waive the caps on core grants for these purposes.
 - (b) The remainder of these funds shall be available on a one-time basis to programs that were allocated funding from the appropriation in this item in the 2002 Budget Act (Ch. 379, Stats 2002) and in the 2003 Budget Act (Ch. 157, Stats. 2003). Funds shall be available for training, standards-aligned materials, and other allowable one-time costs. The State Department of Education shall provide a report to the Legislature and the Department of Finance by October 1, 2005, identifying how these funds were allocated.
- 6110-198-0001—For local assistance, Department of Education (Proposition 98), for transfer by the Controller to Section A of the State School Fund, for allocation to school districts and county offices of education, in lieu of the amount that otherwise would be appropriated pursuant to statute..... 50,497,000

Item

Amount

Schedule:

(1) 20.60.220-CalSAFE Academic and Supportive Services.....	13,707,000
(2) 30.10.020-CalSAFE Child Care	23,353,000
(3) 20.60.221-All Services for Non-converting Pregnant Minors Programs	13,437,000

Provisions:

1. Notwithstanding any other provision of law, a school district or county superintendent of schools operating, by October 1, 1999, a School Age Parent and Infant Development Program pursuant to Article 17 (commencing with Section 8390) of Chapter 2 of Part 6 of, a Pregnant Minors Program pursuant to Chapter 6 (commencing with Section 8900) of Part 6 of, and Section 2551.3 of, or a Pregnant and Lactating Students Program pursuant to Sections 49553 and 49559 of, the Education Code, or any combination thereof, that chooses to participate in the CalSAFE program shall have priority for CalSAFE program funding for an amount up to the dollar amount provided under those provisions in the fiscal year prior to participation in the CalSAFE program, provided an application is submitted and approved.
2. The amounts in Schedules (1), (2), and (3) of this item are based on estimates of the amounts required by existing programs for operation of CalSAFE programs in 2004–05. By October 31, 2004, the Department of Education shall submit to the Department of Finance current expenditure data for 2003–04 and 2004–05 showing each agency’s allocation and supporting detail including average daily attendance and child care attendance and enrollment data. The State Department of Education shall also provide estimates of average daily attendance and child care to be provided in 2005–06.
3. Schedule (3) above is to provide funding for all child care, as well as both academic and supportive services for programs choosing to retain their Pregnant Minors Program revenue limit. Notwithstanding any other provision of law, the department shall compute allocations to these agencies using the respective agencies’ 1998–99 Pregnant Minors Program revenue limits. Further, notwithstanding any other provision of law, programs

Item	Amount
<p>which choose to retain their Pregnant Minors revenue limit rather than convert to the CalSAFE revenue limit must provide child care within the revenue limit funding for children of students comprising base-year average daily attendance. To the extent additional units of average daily attendance are authorized by the department for growth for these agencies, academic and supportive services reimbursement for such growth shall be computed using the new CalSAFE revenue limit. Growth funding for the child care component shall be equal to the proportionate share of total child care costs for the specific agency's program as determined by dividing the authorized growth in student average daily attendance by the total authorized average daily attendance.</p> <p>4. Of the funds appropriated in this item, \$464,000 is for the purpose of providing an adjustment for increases in average daily attendance at a rate of 0.95 percent, and \$1,188,000 is for the purpose of providing a cost-of-living adjustment at a rate of 2.41 percent.</p>	
6110-201-0001—For local assistance, Department of Education (Proposition 98).....	1,010,000
Schedule:	
(1) 30.20.010-Child Nutrition.....	1,010,000
Provisions:	
1. Notwithstanding any other provision of law, the amount appropriated in this item is for the purpose of providing grants to school districts and county superintendents of schools during the 2004–05 school year for school breakfast program startup grants pursuant to Section 49550.3 of the Education Code, and for nonconcurring expenses incurred by a school district or county office of education in initiating or expanding a Summer Food Service Program for children pursuant to Section 49547.5 of the Education Code following criteria developed by the State Department of Education.	
2. Of the amount appropriated in this item, \$10,000 is for the purpose of providing an adjustment for increases in average daily attendance at a rate of 0.95 percent.	
6110-201-0890—For local assistance, Department of Education, Program 30.20-Child Nutrition, payable from the Federal Trust Fund.....	1,616,804,000

Item	Amount
Schedule:	
(1) 30.20.010-Child Nutrition	1,594,354,000
(2) 30.20.040-Summer Food Service Program.....	22,450,000
6110-202-0001—For local assistance, Department of Education	10,779,000
Schedule:	
(1) 30.20.010-Child Nutrition.....	10,779,000
Provisions:	
1. Funds appropriated in Schedule (1) of this item are for child nutrition programs pursuant to Sec- tion 41311 of the Education Code. Claims for re- imbursement of meals pursuant to this appropria- tion shall be submitted no later than September 30, 2005, to be eligible for reimbursement.	
2. Notwithstanding any other provision of law, ex- cept as provided in this provision, funds appropria- ted in Schedule (1) of this item shall be available for allocation in accordance with Section 49536 of the Education Code, except that the allocation shall not be made based on all meals served, but based on the number of meals that are served and that qualify as free or reduced-price meals in ac- cordance with Sections 49501, 49550, and 49552 of the Education Code.	
3. Of the funds appropriated in this item, \$99,000 is for the purpose of providing an adjustment for in- creases in average daily attendance at a rate of 0.95 percent. Additionally, \$254,000 is for the purpose of providing a cost-of-living adjustment at a rate of 2.41 percent.	
6110-203-0001—For local assistance, Department of Education (Proposition 98), for transfer to Section A of the State School Fund, Program 30.20.010-Child Nutrition Programs, established pursuant to Sections 41311, 49536, 49501, 49550, 49552, and 49559 of the Education Code	80,079,000
Schedule:	
(1) 30.20.010-Child Nutrition Pro- grams	83,073,000
(2) Reimbursements.....	-2,994,000
Provisions:	
1. Funds appropriated in Schedule (1) of this item shall be allocated pursuant to Section 41311 of the Education Code. Claims for reimbursement of	

Item	Amount
meals pursuant to this allocation shall be submitted by school districts on or before September 30, 2005, to be eligible for reimbursement.	
2. Notwithstanding any other provision of law and except as otherwise provided in these provisions, funds designed for child nutrition programs in Schedule (1) of this item shall be allocated in accordance with Section 49536 of the Education Code; however, that the allocation shall be based not on all meals served, but on the number of meals that are served and that qualify as free or reduced-price meals in accordance with Sections 49501, 49550, and 49552 of the Education Code.	
3. Of the funds appropriated in this item, \$2,000,000 shall be available for grants to local education agencies to improve school nutrition services. Funding for these grants shall be contingent on an award from the Vitamin Cases Consumer Settlement Fund for this purpose. Funding for these grants shall not exceed the amount of the award.	
4. Of the funds appropriated in this item, \$1,884,000 is for the purpose of providing a cost-of-living adjustment at a rate of 2.41 percent.	
6110-208-0001—For local assistance, Department of Education (Proposition 98), Program 20, for allocation to the Center for Civic Education.....	250,000
Provisions:	
1. The funds appropriated in this item are for the purpose of implementing a middle school and junior high school civic education program.	
6110-209-0001—For local assistance, State Department of Education (Proposition 98), Program 10.10.090.002-Teacher Dismissal Apportionments, for transfer to Section A of the State School Fund and allocation by the Controller for payment of claims received pursuant to Section 44944 of the Education Code	41,000
Provisions:	
1. Of the funds appropriated in this item, \$1,000 is for the purpose of providing a cost-of-living adjustment at a rate of 2.41 percent.	
6110-211-0001—For local assistance, Department of Education (Proposition 98), for transfer to Section A of the State School Fund, Program 20.60.036 for Categorical Programs for charter schools.....	52,807,000

Item	Amount
Provisions:	
1. Funds appropriated in this item are for the charter school categorical block grant. Notwithstanding Sections 47634 and 47634.5 of the Education Code, the State Department of Education shall distribute base block grant funds using a single funding rate per unit of average daily attendance (ADA). This rate shall not exceed \$292 per unit of ADA and shall be pro-rated downward as necessary given total charter school ADA. Supplemental disadvantaged student block grants shall be distributed pursuant to subdivisions (f) and (g) of Section 47634 of the Education Code.	
1.3. Programs associated with the following items are included in the charter school categorical block grant: 6110-103-0001, 6110-108-0001, 6110-112-0001, 6110-116-0001, 6110-119-0001, 6110-120-0001, 6110-122-0001, 6110-124-0001, 6110-127-0001, 6110-128-0001, 6110-137-0001, 6110-166-0001, 6110-167-0001, 6110-189-0001, 6110-190-0001, 6110-191-0001, 6110-193-0001, 6110-197-0001, 6110-201-0001, 6110-203-0001, 6110-212-0001, 6110-224-0001, 6110-228-0001, 6110-232-0001, 6110-235-0001, 6110-240-0001. Charter schools may not apply separately for funding for any of these programs.	
1.5. No later than September 15, 2004, the Legislative Analyst's Office and the Department of Finance shall convene a working group consisting of the State Department of Education, the charter school community, and other interested stakeholders to develop a simpler and clearer method for calculating the charter school block grant appropriation in future years.	
2. The Department of Education shall provide an estimate of average daily attendance expected to be claimed for this item for the 2005–06 fiscal year to the Department of Finance and the Legislative Analyst's Office by October 1, 2004, for use in developing the 2005–06 Governor's Budget. The Department of Education shall provide an update of the estimate by March 31, 2005, for preparation of the May Revision.	
3. An additional \$5,298,000 in expenditures for this item has been deferred until the 2005–2006 fiscal year.	

Item	Amount
6110-212-0001—For local assistance, Department of Education (Proposition 98), Program 20.60-High-Risk Youth Education and Public Safety Program... Provisions:	11,373,000
1. The funds appropriated in this item are for transfer by the Controller to Section A of the State School Fund, for allocation by the State Department of Education to school districts and county offices of education for costs incurred for the High-Risk First-Time Offenders Program and the Transitioning High-Risk Youth Program pursuant to Article 1 (commencing with Section 47760) of Chapter 2 of Part 26.95 of Division 4 of Title 2 of the Education Code.	
2. Of the funds appropriated in this item, \$105,000 is for the purpose of providing an adjustment for increases in average daily attendance at a rate of 0.95 percent, and \$268,000 is for the purpose of providing a cost-of-living adjustment at a rate of 2.41 percent.	
6110-224-0001—For local assistance, Department of Education (Proposition 98), for transfer to Section A of the State School Fund, Year-Round School Grant Program established pursuant to Article 3 (commencing with Section 42260) of Chapter 7 of Part 24 of the Education Code	84,147,000
Schedule:	
(1) 10.10.950.002-Operations grants....	84,147,000
Provisions:	
1. The following provisions govern funds appropriated for the Year-Round School Grant Program (Art. 3 (commencing with Sec. 42260), Ch. 7, Pt. 24, Ed. C.):	
(a) Applications for year-round school grants pursuant to Section 42263 of the Education Code shall be received annually by the Superintendent of Public Instruction no later than September 1 of the year for which payment is sought; applications received after that date may not be processed. If the funds available for a fiscal year are insufficient to fully fund all eligible grants pursuant to Section 42263 of the Education Code, the superintendent shall at that time provide all approved claims with a prorated share of the funds made available for those grants pursuant to this item.	

Item	Amount
6110-228-0001—For local assistance, Department of Education, for transfer to Section A of the State School Fund for allocation by the Controller (Proposition 98), School Safety.....	17,788,000

Schedule:

(1) 20.60.020.011-School Safety Block Grants	2,180,000
(3) 20.60.020.018-Safety Plans for New Schools	1,000,000
(4) 20.60.020.019-Gang Risk Intervention Program.....	3,000,000
(5) 20.60.020.020-School Community Policing Partnership Competitive Grants.....	11,608,000

Provisions:

1. Of the funds appropriated in Schedule (1), \$2,180,000 is available to fund block grants for middle and junior high schools and high schools that serve grades 8 to 12, inclusive, pursuant to Chapter 51, Statutes of 1999. An additional \$36.9 million in expenditures for this purpose has been deferred to 2005–06 and \$47,880,000 is appropriated in Item 6110-485 for this purpose.
2. Of the \$36.9 million deferred from this item, \$1 million shall be made available for county offices of education pursuant to Chapter 645, Statutes of 1999.
3. The funds appropriated in Schedule (3) are available for developing School Safety Plans pursuant to Chapter 996 of the Statutes of 1999 and are to be allocated through an application process as determined by the Department of Education.
4. Of the funds appropriated in this item, \$608,000 is for the purpose of providing an adjustment for increases in average daily attendance at a rate of 0.95 percent. Additionally, \$1,485,000 is for the purpose of providing a cost-of-living adjustment at a rate of 2.41 percent.
5. The funds appropriated in Schedule (5) are available to local education agencies on a competitive basis to implement or expand a school community policing approach to school crime and safety issues including partnerships with local law enforcement agencies. In addition to the expressed purposes above, funds may also be used for implementation of conflict resolution programs and training.

Item	Amount
6110-232-0001—For local assistance, Department of Education (Proposition 98), for transfer to Section A of the State School Fund, Program 10.26, Program to Reduce Class Size in Two Courses in Grade 9 pursuant to Chapter 6.8 (commencing with Section 52080) of Part 28 of Division 4 of Title 2 of the Education Code	110,185,000
Provisions:	
1. Schools participating in this program shall receive a per-pupil rate of \$184 pursuant to Section 52086 of the Education Code.	
6110-234-0001—For local assistance, Department of Education (Proposition 98), Program 10.25, for transfer by the Controller to Section A of the State School Fund, for allocation by the Superintendent of Public Instruction for the Class Size Reduction Program pursuant to Chapter 6.10 (commencing with Section 52120) of Part 28 of the Education Code.....	1,651,775,000
Provisions:	
1. Schools participating in Option One shall receive a per-pupil rate of \$928. Schools participating in Option Two shall receive a per-pupil rate of \$464.	
6110-235-0001—For local assistance, Department of Education (Proposition 98), Program 20.80 for transfer by the Controller to Section A of the State School Fund, for allocation by the Superintendent of Public Instruction for supplemental grants pursuant to Sections 54761.2 and 54761.3 of the Education Code..	167,211,000
Provisions:	
1. Of the funds appropriated in this item, \$1,537,000 is to provide an adjustment for increases in average daily attendance at a rate of 0.95 percent. If the amount required to fund growth is insufficient, the Department of Education may adjust the per-pupil growth rate to reflect the available funds. Additionally, \$3,935,000 is to provide a cost-of-living adjustment at a rate of 2.41 percent.	
6110-240-0001—For local assistance, Department of Education (Proposition 98).....	2,657,000
Schedule:	
(1) 10.80.030-Instruction: International Baccalaureate Diploma Program...	1,107,000
(2) 20.70-Instructional Support: Assessments.....	1,550,000

Item	Amount
Provisions:	
1. The funds appropriated in Schedule (1) of this item shall be for the International Baccalaureate Diploma Program authorized by Chapter 12.5 (commencing with Section 52920) of Part 28 of the Education Code.	
2. The funds appropriated in Schedule (2) of this item shall be for grants for Advanced Placement examination fees as authorized by Chapter 8.3 (commencing with Section 52244) of Part 28 of the Education Code.	
3. Of the funds appropriated in this item, \$24,000 is for the purpose of providing an adjustment for increases in average daily attendance at a rate of 0.95 percent. Additionally, \$62,000 is for the purpose of providing a cost-of-living adjustment at a rate of 2.41 percent.	
6110-240-0890—For local assistance, Department of Education, Program 20.70.010-Instructional Support: Advanced Placement Fee Waiver, payable from the Federal Trust Fund.....	3,736,000
Provisions:	
1. Funding shall be used to fully satisfy the demand for advanced placement examination fee reimbursements for low-income pupils. Any funding remaining after the demand for advanced placement exam fee reimbursements has been fully satisfied may be used on a one-time basis for pre-advanced placement activities as specified under the conditions of the federal grant application through which these funds were authorized. Use of funding for this alternative purpose shall not create nor imply any continuing obligation to fund the alternative activities beyond the 2004–05 fiscal year.	
6110-242-0001—For local assistance, Department of Education (Proposition 98), Program 20.60.106.....	33,000
Provisions:	
1. Funds appropriated in this item are for allocation to the California Association of Student Councils to expand student leadership activities.	
6110-280-0001—For local assistance, Department of Education (Proposition 98), Program 20.40.100.004-At-Risk Youth	606,000

Item	Amount
Provisions:	
1. The funds appropriated in this item are for allocation by the State Department of Education to the Los Angeles Unified School District for services to at-risk youth that participate in a program that meets the criteria specified in subdivision (a) of Section 41 of Chapter 299 of the Statutes of 1997.	
2. Of the funds appropriated in this item, \$6,000 is for the purpose of providing an adjustment for increases in average daily attendance at a rate of 0.95 percent.	
6110-295-0001—For local assistance, Department of Education (Proposition 98), for reimbursement, in accordance with the provisions of Section 6 of Article XIII B of the California Constitution or Section 17561 of the Government Code, of the cost of any new program or increased level of service of an existing program mandated by statute or executive order, for disbursement by the State Controller.....	39,000
Schedule:	
(1) 98.01.003.677-Annual Parent Notification (Ch. 36, Stats. 1977, et al.)	1,000
(2) 98.01.009.894-Caregiver Affidavits (Ch. 98, Stats. 1994).....	1,000
(3) 98.01.016.193-Intradistrict Attendance (Ch. 161, Stats. 1993)	1,000
(4) 98.01.048.675-Mandate Reimbursement Process (Ch. 486, Stats. 1975).....	1,000
(5) 98.01.049.801-Graduation Requirements (Ch. 498, Stats. 1983).	1,000
(6) 98.01.049.802-Notification of Truancy (Ch. 498, Stats. 1983).....	1,000
(7) 98.01.049.803-Pupil Suspensions, Expulsions, Expulsion Appeals (Ch. 498, Stats. 1983 et al.).....	1,000
(8) 98.01.064.186-Open Meetings Act (Ch. 641, Stats. 1986)	1,000
(9) 98.01.066.878-Pupil Exclusions (Ch. 668, Stats. 1978)	1,000
(10) 98.01.078.192-Charter Schools (Ch. 781, Stats. 1992)	1,000
(11) 98.01.078.395-Investment Reports (Ch. 783, Stats. 1995)	0

Item	Amount
(12) 98.01.079.980-PERS Death Benefits (Ch. 799, Stats. 1980).....	1,000
(13) 98.01.081.891-AIDS Prevention Instruction (Ch. 818, Stats. 1991).	1,000
(14) 98.01.096.175-Collective Bargaining (Ch. 961, Stats. 1975)	1,000
(15) 98.01.096.501-Pupil Classroom Suspension: Counseling (Ch. 965, Stats. 1977)	1,000
(16) 98.01.096.577-Pupil Health Screenings (Ch. 1208, Stats. 1976)	1,000
(17) 98.01.097.595-Physical Performance Tests (Ch. 975, Stats. 1995)	1,000
(18) 98.01.101.184-Juvenile Court Notices II (Ch. 1011, Stats. 1984; Ch. 1423, Stats. 1984).....	1,000
(19) 98.01.110.784-Removal of Chemicals (Ch. 1107, Stats. 1984).....	1,000
(20) 98.01.111.789-Law Enforcement Agency Notifications (Ch. 1117, Stats. 1989)	1,000
(21) 98.01.117.677-Immunization Records (Ch. 1176, Stats. 1977) ...	1,000
(22) 98.01.118.475-Habitual Truants (Ch. 1184, Stats. 1975)	1,000
(23) 98.01.125.375-Expulsion Transcripts (Ch. 1253, Stats. 1975).....	1,000
(24) 98.01.128.488-Pupil Suspensions: Parents Classroom Visits (Ch. 1284, Stats. 1988)	1,000
(25) 98.01.130.689-Notification to Teachers of Public Expulsion (Ch. 1306, Stats. 1989)	1,000
(26) 98.01.134.780-Scoliosis Screening (Ch. 1347, Stats. 1980)	1,000
(27) 98.01.139.874-PERS Unused Sick Leave Credit (Ch. 1398, Stats. 1974).....	1,000
(28) 98.01.146.389-School Accountability Report Cards (Ch. 1463, Stats. 1989)	1,000
(29) 98.01.165.984-Emergency Procedures (Ch. 1659, Stats. 1984)	1,000
(30) 98.01.077.896-American Government Course Documents Requirements (Ch. 778, Stats. 1996)	1,000

Item	Amount
(31) 98.01.030.995-Pupil Residency Verification and Appeals (Ch. 309, Stats. 1995)	1,000
(32) 98.01.058.897-Criminal Background Checks (Ch. 588, Stats. 1997).....	1,000
(33) 98.01.041.095-School Crimes Reporting II (Ch. 759, Stats. 1992 and Ch. 410, Stats. 1995)	0
(34) 98.01.083.194-School Bus Safety I and II (Ch. 624, Stats. 1992; Ch. 831, Stats. 1994; Ch. 739, Stats. 1997).....	0
(35) 98.01.046.576-Peace Officers Procedural Bill of Rights (Ch. 465, Stats. 1976)	1,000
(36) 98.01.361.977-Financial and Compliance Audits (Ch. 36, Stats. 1977).....	1,000
(37) 98.01.064.097-Physical Education Reports (Ch. 640, Stats. 1997).....	1,000
(38) 98.01.112.096-Health Benefits for Survivors of Peace Officers and Firefighters (Ch. 1120, Stats. 1996)	1,000
(39) 98.01.091.787-County Office of Education Fiscal Accountability Reporting (Ch. 917, Stats. 1987) ..	1,000
(40) 98.01.065.094-Employee Benefits Disclosure (Ch. 650, Stats. 1994) .	1,000
(41) 98.01.010.081-School District Fiscal Accountability Reporting (Ch. 100, Stats. 1981).....	1,000
(42) 98.01.087.585-Photographic Record of Evidence (Ch. 875, Stats. 1985)	1,000
(43) 98.01.012.693-Law Enforcement Sexual Harassment Training (Ch. 126, Stats. 1993).....	0
(44) 98.01.078.495-County Treasury Oversight Committee (Ch. 784, Stats. 1995)	0

Provisions:

1. Except as provided in Provisions 2 and 3 of this item, allocations of funds shall be made by the Controller in accordance with the provisions of each statute or executive order that mandates the

Item

Amount

- reimbursement of the costs, and shall be audited to verify the actual amount of the mandated costs in accordance with subdivision (d) of Section 17561 of the Government Code. Audit adjustments to prior year claims may be paid from this item. Funds appropriated by this item may be used to provide reimbursement pursuant to Article 5 (commencing with Section 17615) of Chapter 4 of Part 7 of Division 4 of Title 2 of the Government Code.
2. If any of the scheduled amounts are insufficient to provide full reimbursement of costs, the State Controller may, upon approval of the Director of Finance in writing, augment those deficient amounts from the unencumbered balance of any other scheduled amounts therein. No order may be issued pursuant to this provision unless written notification of the necessity therefor is provided to the chairperson of the committee in each house of the Legislature which considers appropriations and the Chairperson of the Joint Legislative Budget Committee or his or her designee.
 3. Notwithstanding any other provision of law, the funds appropriated in Schedules (12) and (27) are for transfer to the Public Employees' Retirement System for reimbursement of costs incurred pursuant to Chapter 1398 of the Statutes of 1974 or Chapter 799 of the Statutes of 1980.
 4. Pursuant to Section 17581.5 of the Government Code, mandates identified in the appropriation schedule of this item with an appropriation of \$0 and included in the language of this provision are specifically identified by the Legislature for suspension during the 2004–05 fiscal year:
 - (11) 98.01.078.395-Investment Reports (Ch. 783, Stats. 1995).
 - (33) School Crimes Reporting II (Ch. 759, Stats. 1992; Ch. 410, Stats. 1995).
 - (34) School Bus Safety I and II (Ch. 624, Stats. 1992; Ch. 831, Stats. 1994; Ch. 739, Stats. 1997).
 - (43) 98.01.012.693-Law Enforcement Sexual Harassment Training (Ch. 126, Stats. 1993).
 - (44) 98.01.078.495-County Treasury Oversight Committee (Ch. 784, Stats. 1995).

Item		Amount
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5. The Controller shall not make any payment from this item to reimburse community college districts for claimed costs of state-mandated education programs. Reimbursements to community college districts for education mandates shall be paid from the appropriate item within the community colleges' budget.

6110-301-0660—	For capital outlay, Department of Education, payable from the Public Buildings Construction Fund	73,260,000
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Schedule:

California School for the Deaf, Riverside:

- (1) 80.80.067-Dormitory Replacement and Chiller—Preliminary plans, working drawings, construction, and equipment 69,948,000

California School for the Deaf, Fremont

- (2) 80.75.020-Pupil, Personnel Services Building—Construction 3,312,000

Provisions:

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 design and construction of the projects authorized by this item.
2. The State Public Works Board and the Department of Education may obtain interim financing for the project costs authorized in this item from any appropriate source including, but not limited to, Section 15849.1 of the Government Code and the Pooled Money Investment Account pursuant to Sections 16312 and 16313 of the Government Code.
3. The State Public Works Board may authorize the augmentation of the cost of construction of the projects scheduled in this item pursuant to the board's authority under Section 13332.11 of the Government Code. In addition, the State Public Works 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 construction of the projects, the costs of financing a debt service fund, and the cost of issuance of perma-

Item	Amount
<p>ment financing for the project. This additional amount may include interest payable on any interim financing obtained.</p> <p>4. This department 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.</p> <p>5. 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 section does not exempt this department from the requirements of the California Environmental Quality Act. This section is declarative of existing law.</p> <p>6. Notwithstanding Section 2.00 of this act or any other provision of law, the funds appropriated in this item shall be available for encumbrance until June 30, 2011.</p> <p>6110-401—For maintenance of accounting records by the Controller’s office and the Department of Education or any other agency maintaining such records, appropriations made in this act for agency 6110 (Department of Education) are to be recorded under agency 6100 (Department of Education).</p> <p>6110-402—Notwithstanding any provision of law to the contrary, no funds appropriated in this act, or by any act enacted prior to the enactment of this act, shall be, in the absence of a court order, deemed appropriated or available for expenditure for purposes of claims for vocational education average daily attendance arising from Section 46140 of the Education Code as it read prior to the enactment of Chapter 1230 of the Statutes of 1977.</p> <p>6110-485—Reappropriation (Proposition 98) Department of Education. The sum of \$320,249,000 is reappropriated from the Proposition 98 Reversion Account, for the following purposes:</p> <p>0001—General Fund</p> <p>(1) \$6,745,000 on a one-time basis to the State Department of Education for the purpose of funding</p>	

Item	Amount
	a 2001–02 deficit in the K–3 Class Size Reduction Program.
(2)	\$652,000 to the State Department of Education to fund 2002–03 caseload in the child nutrition program.
(3)	\$47,880,000 to the State Department of Education to fund grants for school safety programs.
(4)	\$98,624,000 to the State Department of Education to fund Targeted Instructional Improvement Grants.
(7)	\$7,700,000 to the State Department of Education, on a one-time basis, for the Charter Schools Facilities Grant Program.
(8)	\$500,000, on a one-time basis, to the State Department of Education for the establishment of a web-based model that would differentiate and compare the capabilities of electronic assessment resources. These funds would be available contingent upon legislation for this purpose.
(9)	\$32,672,000 to the State Department of Education for the purpose of funding the 2000–01 Certificated Staff Incentive Awards.
(10)	\$2,000,000 to the State Department of Education for the purpose of funding grants under the Healthy Start Program.
(11)	\$17,700,000 on a one-time basis to the State Department of Education for the purposes of Program 30.10.020.001, Special Program, Child Development, General Child Development Programs, as also funded in Item 6110-196-0001 of this act, during the 2004–05 fiscal year.
(12)	\$6,800,000 on a one-time basis to the State Department of Education for the purposes of Program 30.10.020.007, Special Program, Child Development, Alternative Payment Program, as also funded in Item 6110-196-0001 of this act, during the 2004–05 fiscal year.
(13)	\$52,986,000 on a one-time basis to the State Department of Education for the purposes of Program 30.10.020.011, Special Program, Child Development, Alternative Payment Program-Stage 2, as also funded in Item 6110-196-0001 of this act, during the 2004–05 fiscal year.

Item	Amount
(14)	\$14,400,000 on a one-time basis to the State Department of Education for the purposes of Program 30.10.020.012, Special Program, Child Development, Alternative Payment Program-Stage 3 Setaside, as also funded in Item 6110-196-0001 of this act, during the 2004–05 fiscal year.
(15)	\$300,000 on a one-time basis to the State Department of Education for the purposes of Program 30.10.020.015, Special Program, Child Development, Extended Day Care, as also funded in Item 6110-196-0001 of this act, during the 2004–05 fiscal year.
(16)	\$27,300,000 on a one-time basis to the State Department of Education. These funds shall be available to the extent they are necessary to fund subsidized child care services for children who are 11 or 12 years of age, for the programs identified in paragraphs (11) to (15), inclusive, consistent with Section 8263.4 of the Education Code, during the 2004–05 fiscal year.
(17)	\$3,990,000 to the State Department of Education for the Principal Training Program.

Provisions:

1. The funds specified in Schedule (7) shall be used to provide grants to charter schools that operate in low-income attendance areas for facilities-related expenses pursuant to Section 47614.5 of the Education Code.
2. The amount appropriated in Schedule (10) is for the purposes of providing full funding of operational grants for any districts that previously had collaborative planning grants and providing full funding for collaborative planning and operational grants for schools never receiving a Healthy Start grant. First priority shall be given to providing operational grants for districts with previous collaborative planning grants. Collaborative planning grants may be expended over and up to a two-year period. Operational grants may be expended over and up to a five-year period.

6110-490—Reappropriation, Department of Education. The balance of the appropriation provided in the following citation is reappropriated for the purposes and subject to the limitations, unless otherwise specified, provided for in the appropriation:

0660—Public Buildings Construction Fund

Item	Amount
(1) Item 6110-301-0660, Budget Act of 2003 (Ch. 157, Stats. 2003) California School for the Deaf, Riverside: (1) 80.80.030-Multipurpose/Activity Center— Working drawings and construction	
6110-494—Reappropriation, Department of Education. Notwithstanding any other provision of law, the following specified balances are reappropriated from the following citations, for the purposes specified, and shall be available for encumbrance and expenditure until June 30, 2005: Provisions:	
2. Notwithstanding Section 8278 of the Education Code, \$15,000,000 of the remaining General Fund balance of the amount appropriated in Schedule (1.5) (e) for CalWORKs Stage 2 child care in Item 6110-196-0001 of the Budget Act of 2003 (Ch. 157, Stats. 2003), shall be available only for expenditure for CalWORKs Stage 2.	
4. Notwithstanding Section 8278 of the Education Code, \$18,600,000 of the remaining General Fund balance of the amount appropriated in Schedule (1.5)(f) for CalWORKs Stage 3 child care in Item 6110-196-0001 of the Budget Act of 2003 (Ch. 157, Stats. 2003), shall be available only for expenditure for CalWORKs Stage 3.	
6110-495—Reversion, Department of Education, Proposition 98. The following amounts shall revert to the Proposition 98 Reversion Account:	
(1) \$909,000, or whatever greater or lesser amount reflects the unliquidated General Fund balance, appropriated in Item 6110-211-0001, Budget Act of 2001 (Ch. 106, Stats. 2001).	
(2) \$569,000, or whatever lesser or greater amount reflects unexpended funds, from Schedule (3) of Item 6110-104-0001, Budget Act of 2002 (Ch. 379, Stats. 2002).	
(3) \$264,000, or whatever lesser or greater amount reflects unexpended funds, from Item 6110-122-0001, Budget Act of 2002 (Ch. 379, Stats. 2002).	
(4) \$328,000, or whatever lesser or greater amount reflects unexpended funds, from Item 6110-127-0001, Budget Act of 2002 (Ch. 379, Stats. 2002).	
(5) \$3,829,000, or whatever lesser or greater amount reflects unexpended funds, from Section 4(a) of Chapter 101, Statutes of 2002.	

Item	Amount
(6) \$6,000, or whatever lesser or greater amount reflects unexpended funds, from Item 6110-295-0001, Budget Act of 2002 (Ch. 379, Stats. 2002).	
(7) \$10,000,000, or whatever lesser or greater amount reflects unexpended funds, from Item 6110-132-0001, Budget Act of 2002 (Ch. 379, Stats. 2002).	
(8) \$4,000, or whatever lesser or greater amount reflects unexpended funds, from the 2002–03 fiscal year appropriation pursuant to Education Code Section 315, as enacted by Proposition 227 in 1998.	
(9) \$1,036,000, or whatever lesser or greater amount reflects unexpended funds, from Schedules (15) and (17) of Item 6110-485-0001, Budget Act of 2001 (Ch. 106, Stats. 2001).	
(10) \$4,031,000, or whatever lesser or greater amount reflects unexpended funds, from Item 6110-295-0001, Budget Act of 2001 (Ch. 106, Stats. 2001).	
(11) \$47,000, or whatever lesser or greater amount reflects unexpended funds, from Item 6110-122-0001, Budget Act of 2001 (Ch. 106, Stats. 2001).	
(12) \$14,000, or whatever lesser or greater amount reflects unexpended funds, from the 2001–02 fiscal year appropriation pursuant to Education Code Section 315, as enacted by Proposition 227 in 1998.	
(13) \$2,420,000, or whatever lesser or greater amount reflects unexpended funds, from the appropriation made by Section 37(a) of Chapter 71, Statutes of 2000.	
(14) \$236,000, or whatever lesser or greater amount reflects unexpended funds, from the appropriation made by Section 41(k)(1) of Chapter 299, Statutes of 1997.	
(15) \$260,000, or whatever lesser or greater amount reflects unexpended funds, from Item 6110-120-0001, Budget Act of 2002 (Ch. 379, Stats. 2002).	
(16) \$423,000, or whatever lesser or greater amount reflects unexpended funds, from Item 6110-120-0001, Budget Act of 2001 (Ch. 106, Stats. 2001).	

Item	Amount
(17) \$45,000, or whatever lesser or greater amount reflects unexpended funds, from Item 6110-198-0001, Budget Act of 2002 (Ch. 379, Stats. 2002).	
(18) \$59,000, or whatever lesser or greater amount reflects unexpended funds, from Item 6110-201-0001, Budget Act of 2001 (Ch. 106, Stats. 2001).	
(19) \$576,000, or whatever lesser or greater amount reflects unexpended funds, from Item 6110-226-0001, Budget Act of 2002 (Ch. 379, Stats. 2002).	
(20) \$6,000, or whatever lesser or greater amount reflects unexpended funds, from Item 6110-226-0001, Budget Act of 2001 (Ch. 106, Stats. 2001).	
(21) \$24,000, or whatever lesser or greater amount reflects unexpended funds, from Item 6110-240-0001, Budget Act of 1998 (Ch. 324, Stats. 1998).	
(22) \$656,000, or whatever greater or lesser amount reflects the unliquidated General Fund balance, appropriated in Item 6110-111-0001, Budget Act of 2001 (Ch. 106, Stats. 2001).	
(23) \$1,795,000, or whatever greater or lesser amount reflects the unliquidated General Fund balance, appropriated in Item 6110-161-0001, Budget Act of 2001 (Ch. 106, Stats. 2001).	
(24) \$1,300,000, or whatever greater or lesser amount reflects the unliquidated General Fund balance, reappropriated in Item 6110-485, in subdivision (27), Budget Act of 2001 (Ch. 106, Stats. 2001).	
(25) \$2,678,000, or whatever lesser or greater amount reflects unexpended funds from Subparagraph (A) of Paragraph (2) of subdivision (a) of Ch. 101, Stats. 2002.	
(26) \$500,000, or whatever lesser or greater amount reflects unexpended funds from subdivision (36) of Item 6110-485, Budget Act of 2001 (Ch. 106, Stats. 2001).	
(27) \$60,000, or whatever lesser or greater amount reflects unexpended funds from subdivision (5) of Item 6110-485, Budget Act of 2003 (Ch. 157, Stats. 2003).	

Item	Amount
(28) \$176,000, or whatever lesser or greater amount reflects unexpended funds from Schedule (4) of Item 6110-123-0001, Budget Act of 2002 (Ch. 379, Stats. 2002).	
(29) \$1,608,000, or whatever lesser or greater amount reflects unexpended funds from Schedule (3) of Item 6110-113-0001, Budget Act of 2001 (Ch. 106, Stats. 2001).	
(30) \$231,000, or whatever lesser or greater amount reflects unexpended funds from Schedule (3) of Item 6110-113-0001, Budget Act of 2002 (Ch. 379, Stats. 2002).	
(31) \$3,000, or whatever lesser or greater amount reflects unexpended funds from Schedule (1) of Item 6110-113-0001, Budget Act of 2002 (Ch. 379, Stats. 2002).	
(32) \$6,905,000, or whatever lesser or greater amount reflects unexpended funds, from Item 6110-134-0001, Budget Act of 2002 (Ch. 379, Stats. 2002).	
(34) \$1,000,000, or whatever lesser or greater amount reflects unexpended funds from Item 6110-158-0001, Budget Act of 2002 (Ch. 379, Stats. 2002).	
(35) \$8,288,000, or whatever lesser or greater amount reflects unexpended funds from Item 6110-191-0001, Budget Act of 2002 (Ch. 379, Stats. 2002).	
(36) \$17,924,000, or whatever lesser or greater amount reflects unexpended funds from subdivision (4) of Item 6110-485, Budget Act of 2002 (Ch. 379, Stats. 2002).	
(37) \$9,008,000, or whatever lesser or greater amount reflects unexpended funds from subdivision (24) of Item 6110-485, Budget Act of 2001 (Ch. 106, Stats. 2001).	
(38) \$1,187,000, or whatever lesser or greater amount reflects unexpended funds from subparagraph (C) of paragraph (1) of subdivision (a) of Section 9 of Chapter 2 of the Statutes of 1999, First Extraordinary Session.	
(39) \$50,000,000, or whatever lesser or greater amount reflects unexpended funds from Item 6110-234-0001, Budget Act of 2003 (Ch. 157, Stats. 2003)	

Item	Amount
(40) \$150,000, or whatever lesser or greater amount reflects unexpended funds from Item 6110-120-0001, Budget Act of 2003 (Ch. 157, Stats. 2003)	
(41) \$280,000, or whatever lesser or greater amount reflects unexpended funds from Schedule 2 of Item 6110-226-0001, Budget Act of 2003 (Ch. 157, Stats. 2003)	
(42) \$500,000, or whatever lesser or greater amount reflects unexpended funds from Schedule 1 of Item 6110-226-0001, Budget Act of 2003 (Ch. 157, Stats. 2003)	
(43) \$3,000,000, or whatever lesser or greater amount reflects unexpended funds from Schedule 5 of Item 6110-226-0001, Budget Act of 2003 (Ch. 157, Stats. 2003)	
(44) \$107,000, or whatever lesser or greater amount reflects unexpended funds from Item 6110-243-0001, Budget Act of 2001 (Ch. 106, Stats. 2001)	
(45) \$23,000, or whatever lesser or greater amount reflects unexpended funds from Item 6110-122-0001, Budget Act of 2001 (Ch. 106, Stats. 2001)	
(46) \$36,000, or whatever lesser or greater amount reflects unexpended funds from Item 6110-128-0001, Budget Act of 2001 (Ch. 106, Stats. 2001)	
(47) \$317,071, or whatever lesser or greater amount reflects the unexpended funds from the appropriation made by subparagraph (1) of subdivision (a) of Section 40 of Chapter 71 of the Statutes of 2000	
(48) \$549,080, or whatever lesser or greater amount reflects the unexpended funds from Schedule (1) of Item 6110-113-0001, Budget Act of 2001 (Ch. 106, Stats. 2001)	
(49) \$254,465, or whatever lesser or greater amount reflects the unexpended funds from Schedule (7) of Item 6110-113-0001, Budget Act of 2001 (Ch. 106, Stats. 2001)	
(50) \$25,892, or whatever lesser or greater amount reflects the unexpended funds from Schedule (41) of Item 6110-485, Budget Act of 2001 (Ch. 106, Stats. 2001)	

Item	Amount
(51) \$139,200, or whatever lesser or greater amount reflects the unexpended funds from Schedule (1) Item 6110-123-0001, Budget Act of 2002 (Ch. 379, Stats. 2002)	
(52) \$880,000, or whatever lesser or greater amount reflects the unexpended funds from Schedule (3) of Item 6110-123-0001, Budget Act of 2002 (Ch. 379, Stats. 2002)	
(53) \$36,500, or whatever lesser or greater amount reflects the unexpended funds from Schedule (5) of Item 6110-113-0001, Budget Act of 2001 (Ch. 106, Stats. 2001)	
(54) \$27,782, or whatever lesser or greater amount reflects the unexpended funds from the appropriation made by subdivision (a) of Section 5 of Chapter 196 of the Statutes of 1996	
(55) \$600,000, or whatever lesser or greater amount reflects the unexpended funds from Item 6110-166-0001, Budget Act of 2001 (Ch. 106, Stats. 2001)	
(56) \$20,292, or whatever lesser or greater amount reflects the unexpended funds from Item 6110-167-0001, Budget Act of 2001 (Ch. 106, Stats. 2001)	
(57) \$189,838, or whatever lesser or greater amount reflects the unexpended funds from Item 6110-191-0001, Budget Act of 2001 (Ch. 106, Stats. 2001)	
(58) \$150,000, or whatever lesser or greater amount reflects the unexpended funds from Schedule (7) of Item 6110-193-0001, Budget Act of 2001 (Ch. 106, Stats. 2001)	
(59) \$60,170, or whatever lesser or greater amount reflects the unexpended funds from Item 6110-195-0001, Budget Act of 2001 (Ch. 106, Stats. 2001)	
(60) \$100,000, or whatever lesser or greater amount reflects the unexpended funds from Schedule (12) of Item 6110-485, Budget Act of 2001 (Ch. 106, Stats. 2001)	
(61) \$35,766, or whatever lesser or greater amount reflects the unexpended funds from Item 6110-195-0001, Budget Act of 2002 (Ch. 379, Stats. 2002)	

Item	Amount
(62) \$74,000, or whatever lesser or greater amount reflects the unexpended funds from Item 6110-197-0001, Budget Act of 2002 (Ch. 379, Stats. 2002)	
(63) \$10,000,000, or whatever lesser or greater amount reflects the unexpended funds from Item 6110-191-0001, Budget Act of 2003 (Ch. 157, Stats. 2003)	
(64) \$771,000, or whatever lesser or greater amount reflects the unexpended funds from Schedule (19) of Item 6110-295-0001, Budget Act of 2001 (Ch. 106, Stats. 2001)	
(65) \$20,313, or whatever lesser or greater amount reflects the unexpended funds from Schedule (30) of Item 6110-295-0001, Budget Act of 2001 (Ch. 106, Stats. 2001)	
(66) \$13,184,000, of the balance in the Child Care Facilities Revolving Fund established pursuant to Section 8278.3 of the Education Code.	
(67) \$12,902, or whatever lesser or greater amount reflects the unexpended balance from the funds appropriated in subdivision (a) of Section 36 of Chapter 82 of the Statutes of 1989.	
(68) \$6,073, or whatever lesser or greater amount reflects the unexpended balance from the funds appropriated in subdivision (a) of Section 4 of Chapter 196 of the Statutes of 1996.	
(69) \$6,901, or whatever lesser or greater amount reflects the unexpended balance from the funds appropriated in subdivision (b) of Section 9 of Chapter 734 of the Statutes of 1999.	
(70) \$29,846, or whatever lesser or greater amount reflects the unexpended balance from the funds appropriated in subdivision (c) of Section 9 of Chapter 734 of the Statutes of 1999.	
(71) \$20,833, or whatever lesser or greater amount reflects the unexpended balance from the funds appropriated in Section 1 of Chapter 962 of the Statutes of 1999.	
(72) \$486,125, or whatever lesser or greater amount reflects the unexpended funds from Item 6110-126-0001, Budget Act of 2001 (Ch. 106, Stats. 2001)	
(73) \$76,573, or whatever lesser or greater amount reflects the unexpended funds from Item 6110-163-0001, Budget Act of 2001 (Ch. 106, Stats. 2001)	

Item	Amount
(74) \$39,790, or whatever lesser or greater amount reflects the unexpended funds from Item 6110-181-0001, Budget Act of 2001 (Ch. 106, Stats. 2001)	
(75) \$187,740, or whatever lesser or greater amount reflects the unexpended funds from Item 6110-184-0001, Budget Act of 2001 (Ch. 106, Stats. 2001)	
(76) \$62,925, or whatever lesser or greater amount reflects the unexpended funds from Item 6110-224-0001, Budget Act of 2001 (Ch. 106, Stats. 2001)	
(77) \$110,000, or whatever lesser or greater amount reflects the unexpended funds from Schedule (32) of Item 6110-485, Budget Act of 2001 (Ch. 106, Stats. 2001)	
(78) \$1,350,400, or whatever lesser or greater amount reflects the unexpended funds from Item 6110-224-0001, Budget Act of 2002 (Ch. 379, Stats. 2002)	
(79) \$50,000, or whatever lesser or greater amount reflects unexpended funds in the 2002–03 fiscal year, from Schedule (2) of Item 6110-123-0001, Budget Act of 2002 (Ch. 379, Stats. 2002).	
(80) \$4,740,000, or whatever lesser or greater amount reflects unexpended funds, from Item 6110-102-0001, Budget Act of 2002 (Ch. 379, Stats. 2002).	
(81) \$365,000, or whatever lesser or greater amount reflects unexpended funds, from Item 6110-108-0001, Budget Act of 2002 (Ch. 379, Stats. 2002).	
(82) \$198,000, or whatever lesser or greater amount reflects unexpended funds, from Item 6110-212-0001, Budget Act of 2002 (Ch. 379, Stats. 2002).	
(83) \$129,000, or whatever lesser or greater amount reflects unexpended funds, from Item 6110-108-0001, Budget Act of 2003 (Ch. 157, Stats. 2003).	
(84) \$1,500,000, or whatever lesser or greater amount reflects unexpended funds, from Item 6110-212-0001, Budget Act of 2003 (Ch. 157, Stats. 2003).	

Item	Amount
(85)	\$33,000, or whatever lesser or greater amount reflects unexpended funds, from Item 6110-006-0001, Budget Act of 2003 (Ch. 157, Stats. 2003).
(86)	Notwithstanding Section 8278 of the Education Code, the sum of \$5,142,000 or whatever is the greater or lesser amount that reflects the unliquidated General Fund balance of the amount appropriated in Item 6110-196-0001, Budget Act of 2000 (Ch. 52, Stats. 2000), with the exception of Schedules (5.1)(b) and (5.2)(b) of that item for CalWORKs child care programs.
(87)	\$5,000,000 or whatever is the greater or lesser amount that reflects the unliquidated General Fund balance of the amount appropriated for after school programs in Schedule (3) of Item 6110-196-0001, Budget Act of 2001 (Ch. 106, Stats. 2001).
(88)	\$2,500,000 or whatever is the greater or lesser amount that reflects the unliquidated General Fund balance of the amount appropriated for after school programs in Schedule (3) of Item 6110-196-0001, Budget Act of 2002 (Ch. 379, Stats. 2002).
(89)	\$6,000,000 or whatever is the greater or lesser amount that reflects the unliquidated General Fund balance of the amount appropriated for after school programs in Schedule (2) of Item 6110-196-001, Budget Act of 2003 (Ch. 157, Stats. 2003).
(90)	\$1,323,000 or whatever is the greater or lesser amount that reflects the unliquidated General Fund balance of the amount appropriated in Chapter 704 of the Statutes of 2000.
6110-496—Reversion, Department of Education.	
Provision:	
1. The Superintendent for Public Instruction is hereby authorized to initiate the reversion of appropriations in cases where the balance available for reversion is less than \$50,000, and either of the following applies:	
(a) The program in question has expired.	
(b) The Superintendent for Public Instruction certifies that the original purpose of the expenditure would not be accomplished by further expenditure.	

Item	Amount
2. The Department of Education may periodically review its accounts at the State Controller’s Office to identify appropriations that meet these criteria. Upon the request of the Department of Education, and if the Director of Finance approves the request, or portions thereof, the Director of Finance shall issue an executive order to revert identified appropriations. The State Controller shall timely revert appropriations identified in the executive order to the fund from which the appropriation was originally made (or a successor fund in the case of an expired fund), or to the Proposition 98 Reserve Account, whichever is appropriate.	
6110-497—Reversion, Department of Education. As of June 30, 2004 the following amount shall revert to the fund balance of the fund from which the appropriation was made:	
(1) \$35,000,000 or whatever greater or lesser amount reflects the unexpended funds as of June 30, 2004 from the appropriation made by Item 6110-136-0001 of Section 2.00 of the Budget Act of 2001 (Ch. 106, Stats. 2001)	
6120-011-0001—For support of California State Library, Division of Libraries, and California Library Services Board	9,824,000
Schedule:	
(1) 10-State Library Services	12,723,000
(2) 20-Library Development Services ..	3,959,000
(3) 30-Information Technology Services.....	894,000
(4) 40.01-Administration.....	1,642,000
(5) 40.02-Distributed Administration ...	-1,642,000
(6) Reimbursements.....	-1,599,000
(7) Amount payable from the Federal Trust Fund (Item 6120-011-0890).	-6,153,000
Provisions:	
1. Of the amount appropriated in Schedule (1) of this item, \$76,000 is for repair and maintenance costs of the Library and Courts II Building.	
6120-011-0020—For support of the California State Library, Program 10-State Library Services, for support of the State Law Library, payable from the California State Law Library Special Account	589,000
Provisions:	
1. The Director of Finance may authorize the augmentation of the total amount available for expen-	

Item	Amount
<p>diture under this item in the amount of revenue received by the State Law Library Special Account which is in addition to the revenue appropriated by this item or in the amount of funds unexpended from previous fiscal years, not sooner than 30 days after notification in writing to the chairpersons of the fiscal committees of each house and the Chairperson of the Joint Legislative Budget Committee.</p>	
<p>6120-011-0890—For support of California State Library, for payment to Item 6120-011-0001, payable from the Federal Trust Fund.....</p>	6,153,000
<p>6120-011-6000—For support of California State Library, Program 20-Library Development Services-Office of Library Construction (Proposition 14), payable from the California Public Library Construction and Renovation Fund</p>	2,589,000
<p>6120-011-6029—For support of California State Library, Program 10-State Library Services-Administration of the California Cultural and Historical Endowment, payable from the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Fund</p>	1,557,000
<p>Provisions:</p> <ol style="list-style-type: none"> 1. Funds in this item are available for the administration of the California Cultural and Historical Endowment authorized by Chapter 157, Statutes of 2003. 	
<p>6120-012-0001—For support of the California State Library for rental payments on lease-revenue bonds... Schedule:</p>	2,457,000
<p>(1) Base Rental and Fees</p>	2,467,000
<p>(2) Insurance</p>	26,000
<p>(3) Reimbursements.....</p>	-36,000
<p>Provisions:</p> <ol style="list-style-type: none"> 1. The Controller shall transfer funds appropriated in this item according to a schedule to be provided by the State Public Works Board. The schedule shall be provided on a monthly basis or as otherwise might be needed to ensure debt requirements are met. 	
<p>6120-013-0001—For support of California State Library, Program 10-State Library Services—Sutro Library Special Repairs Project</p>	267,000
<p>Provisions:</p> <ol style="list-style-type: none"> 1. Of the funds appropriated in this item, \$250,000 is for repair of the roof. 	

Item	Amount
6120-150-0001—For local assistance, California State Library, for the California Civil Liberties Public Education Program	500,000
Provisions:	
1. The funds appropriated in this item shall be used to provide competitive grants pursuant to the provisions of Part 8.5 (commencing with Section 13000) of Division 1 of the Education Code.	
6120-151-0483—For support of the California State Library, Program 20-Library Development Services, for telephonic services authorized by Chapter 654 of the Statutes of 2001, payable from the California Deaf and Disabled Telecommunications Program Administrative Committee Fund.....	441,000
6120-160-0001—For local assistance, California State Library, Program 20-Library Development Services—California Newspaper Project.....	240,000
6120-211-0001—For local assistance, California State Library, Program 20-Library Development Services	15,170,000
Schedule:	
(1) 20.30-Direct Loan and Interlibrary Loan Programs	12,145,000
(2) 20.40-Computerized database pursuant to Section 18767 of the Education Code	175,000
(3) 20.50-California Library Services Act pursuant to Chapter 4 (commencing with Section 18700) of Part 11 of the Education Code.....	2,850,000
6120-211-0890—For local assistance, California State Library, Program 20-Library Development Services, payable from the Federal Trust Fund.....	12,518,000
6120-213-0001—For local assistance, California State Library, Program 20-Library Development Services—California English Acquisition and Literacy Program	5,340,000
Provisions:	
1. Funds in this item are available for the California English Acquisition and Literacy Program pursuant to Section 18736 of the Education Code.	
6120-221-0001—For local assistance, California State Library, Program 20-Library Development Services—Public Library Foundation Program.....	14,360,000
Provisions:	
1. Notwithstanding any other provision of law, for the 2004–05 fiscal year, the date on or before	

Item	Amount
<p>which the fiscal officer of each public library shall report to the State Librarian the information specified in Section 18023 of the Education Code shall be December 1, 2004.</p> <p>2. Notwithstanding any other provision of law, for the 2004–05 fiscal year, the date on or before which the Controller shall distribute funds to the fiscal officer of each public library as specified in Section 18026 of the Education Code shall be February 15, 2005.</p> <p>3. It is the intent of the Legislature that the funds appropriated in this item be allocated consistent with the provisions of Section 18025 of the Education Code.</p>	
<p>6120-490—Reappropriation, California State Library. The balance of the appropriation provided in the following citation is reappropriated for the purpose provided in that appropriation and shall be available for encumbrance and expenditure until June 30, 2007: 6029—California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Fund (1) Item 6120-101-6029 of the Budget Act of 2003 (Ch. 157, Stats. 2003)</p>	
<p>6125-001-0001—For support of the Education Audit Appeals Panel.....</p>	1,257,000
<p>6125-495—Reversion, Education Audit Appeals Panel. The following amount shall revert to the General Fund:</p> <p>(1) \$609,000 from subdivision (c) of Section 15 of Chapter 1128, Statutes of 2002.</p>	
<p>6130-001-0942—For support of the California Quality Education Commission, payable from the California Quality Education Special Deposit Fund</p>	188,000
<p>6255-001-0001—For support of California State Summer School for the Arts, Program 10.....</p>	756,000
<p>6330-001-0890—For support of the California Occupational Information Coordinating Committee, payable from the Federal Trust Fund</p>	313,000
<p>6360-001-0407—For support of the Commission on Teacher Credentialing, payable from the Teacher Credentials Fund</p>	14,411,000
<p>Schedule:</p> <p>(1) 10-Standards for Preparation and Licensing of Teachers</p>	14,650,000
<p>(2) 10.40.010-Departmental Administration.....</p>	(4,523,000)

Item		Amount
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| | (3) 10.40.020-Distributed Departmental Administration..... | (-4,523,000) |
| | (4) Reimbursements (Cultural Competency Study)..... | -239,000 |

Provisions:

1. The amount appropriated in this item may be increased based on increases in credential applications, increases in first-time credential applications requiring fingerprint clearance, unanticipated costs associated with certificate discipline cases, or unanticipated costs of litigation, subject to approval of the Department of Finance, not sooner than 30 days after notification in writing to the chairpersons of the fiscal committees of each house and the Chairperson of the Joint Legislative Budget Committee.
3. To ensure the Teacher Credentials Fund reserve remains at a prudent level, the Commission on Teacher Credentialing shall charge no more than \$55 for the issuance or renewal of a teaching credential.
4. Of the funds appropriated in Schedule (1) of this item, \$366,000 is for maintenance costs of the Teacher Credentialing Service Improvement Project.
5. If the funds available in the Teacher Credentials Fund are insufficient to meet the operational needs of the Commission on Teacher Credentialing, the Department of Finance may authorize a loan to be provided from the Test Development and Administration Account to the Teacher Credentials Fund. The Department of Finance shall notify the Chairperson of the Joint Legislative Budget Committee, or his or her designee, of its intent to request that the Controller transfer the amount projected to be required from the Test Development and Administration Account to the Teacher Credentials Fund. The Controller shall transfer those funds not sooner than 30 days after this notification.
6. Of the funds provided in Schedule (1), \$120,000 is carryover funding provided for staff training related to the Teacher Credentials Service Improvement Project. Expenditure of these funds is contingent upon approval of an expenditure plan by the Director of Finance.

Item

Amount

- 7. The Commission on Teacher Credentialing (CTC) shall submit quarterly reports to the Legislature, the Legislative Analyst’s Office, and the Department of Finance on the minimum, maximum, and average number of days taken to process: (a) renewal and university-recommended credentials, (b) out-of-state and special education credentials, (c) service credentials and supplemental authorizations, (d) adult and vocational education certificates and child center permits, and (e) emergency permits. The quarterly reports shall commence on October 1, 2004, and provide monthly data for July, August, and September. Subsequent reports shall include historical data as well as data from the most recent quarter. The CTC shall work to reduce its processing time.
- 8. By January 1, 2005, the CTC shall submit a short report to the Legislature and the Department of Finance identifying at least three feasible options to further reduce processing time that could be implemented in 2005–06. These options may include procedural and statutory changes to CTC’s application review process.

6360-001-0408—For support of the Commission on Teacher Credentialing, payable from the Test Development and Administration Account, Teacher Credentials Fund..... 9,678,000

Schedule:

- (1) 10-Standards for Preparation and Licensing of Teachers 9,678,000

Provisions:

- 1. The amount appropriated in this item may be increased for unanticipated costs of litigation, or for costs from increases in the number of examinees, subject to approval of the Department of Finance, not sooner than 30 days after notification in writing to the chairpersons of the fiscal committees of each house and the Chairperson of the Joint Legislative Budget Committee.
- 2. Notwithstanding Section 44234 of the Education Code, funds that are set aside for pending litigation costs shall not be considered part of the reserve of the Teacher Credentials Fund for purposes of subdivision (b) of Section 44234 of the Education Code.

Item	Amount
3. If the funds available in the Teacher Credentials Fund are insufficient to meet the operational needs of the Commission on Teacher Credentialing, the Department of Finance may authorize a loan to be provided from the Test Development and Administration Account to the Teacher Credentials Fund. The Department of Finance shall notify the Chairperson of the Joint Legislative Budget Committee, or his or her designee, of its intent to request that the Controller transfer the amount projected to be required from the Test Development and Administration Account to the Teacher Credentials Fund. The Controller shall transfer those funds not sooner than 30 days after this notification.	
6360-001-0890—For support of the Commission on Teacher Credentialing, payable from the Federal Trust Fund.....	147,000
Provisions:	
1. The funds appropriated in this item are available as one-time carryover for the federal Troops to Teachers program.	
6360-101-0001—For local assistance, Commission on Teacher Credentialing (Proposition 98), Program 10, Standards for Preparation and Licensing of Teachers.....	31,814,000
Schedule:	
(1) 10.20.001-Alternative Certification Program.....	24,923,000
(2) 10.20.002-California School Paraprofessional Teacher Training Program.....	6,583,000
(3) 10.10.001-Teacher Misassignment Monitoring.....	308,000
Provisions:	
1. The funds appropriated in Schedule (1) are for school districts and county offices of education participating in the alternative certification programs established pursuant to Article 11 (commencing with Section 44380) of Chapter 2 of Part 25 of the Education Code.	
2. The funds appropriated in Schedule (2) are for school districts and county offices of education participating in the California School Paraprofessional Teacher Training Program established pur-	

Item	Amount
<p>suant to Article 12 (commencing with Section 44390) of Chapter 2 of Part 25 of the Education Code.</p> <p>3. The funds appropriated in Schedule (3) shall be used to reimburse county offices of education for costs associated with monitoring public schools and school districts for teacher misassignments. Funds shall be allocated on a basis determined by the commission. Districts and county offices receiving funds for credential monitoring will provide reasonable and necessary information to the commission as a condition of receiving these funds.</p> <p>6360-485—Reappropriation (Proposition 98), California Commission on Teacher Credentialing. The sum of \$3,500,000 is reappropriated from the Proposition 98 Reversion Account for the following purpose:</p> <p>0001—General Fund</p> <p>(1) \$3,500,000 to support the California Pre-Internship Teaching Program authorized pursuant to Article 5.6 (commencing with Section 44305) of Chapter 2 of Part 25 of the Education Code for one year.</p> <p>6360-495—Reversion, California Commission on Teacher Credentialing. The following amounts shall revert to the Proposition 98 Reversion Account:</p> <p>(1) \$3,887,000 or whatever lesser or greater amount reflects unexpended funds from Schedule (1) of Item 6360-101-0001, Budget Act of 2002 (Ch. 379, Stats. 2002).</p> <p>(2) \$528,000 or whatever lesser or greater amount reflects unexpended funds from Schedule (2) of Item 6360-101-0001, Budget Act of 2002 (Ch. 379, Stats. 2002).</p> <p>(3) \$1,191,000 or whatever lesser or greater amount reflects unexpended funds from Item 6360-485, Budget Act of 2002 (Ch. 379, Stats. 2002).</p> <p>6420-001-0001—For support of California Postsecondary Education Commission</p>	1,999,000
<p>Schedule:</p> <p>(1) 100000-Personal Services</p> <p>(2) 300000-Operating Expenses and Equipment</p> <p>(3) Reimbursements</p> <p>(4) Amount payable from the Federal Trust Fund (Item 6420-001-0890).</p>	<p>1,846,000</p> <p>567,000</p> <p>-3,000</p> <p>-411,000</p>

Item	Amount
6420-001-0890—For support of California Postsecondary Education Commission, for payment to Item 6420-001-0001, payable from the Federal Trust Fund	411,000
6420-101-0890—For local assistance, California Postsecondary Education Commission, payable from the Federal Trust Fund	8,579,000
Provisions:	
1. The funds appropriated in this item are for local assistance activities funded through the No Child Left Behind Act (P.L. 107-110).	
6440-001-0001—For support of University of California	2,503,042,000
Schedule:	
(1) Support	2,419,663,000
(2) Charles R. Drew Medical Program.	8,136,000
(3) Acquired Immune Deficiency Syndrome (AIDS) Research	9,699,000
(4) Student Financial Aid	52,199,000
(5) Loan Repayments.....	5,105,000
(6) San Diego Supercomputer Center ..	3,240,000
(7) Subject Matter Projects	5,000,000
Provisions:	
1. The appropriations made in this item are exempt from Section 31.00 of this act.	
2. None of the funds appropriated in this item may be expended to initiate major capital outlay projects by contract without prior legislative approval, except for cogeneration and energy conservation projects. Exempted projects shall be reported in a manner consistent with the reporting procedures in subdivision (d) of Section 28.00 of this act.	
3. The funds appropriated in Schedule (2) are for support of University of California program of clinical health sciences education, research, and public service, conducted in conjunction with the Charles R. Drew University of Medicine and Science, as provided for in Sections 1, 2, and 3 of Chapter 1140 of the Statutes of 1973. Of the amount appropriated, \$500,000 is contingent upon the provision by the University of California of an equal amount of matching funds from its own resources. The University of California shall ensure by adequate controls that funds appropriated by Schedule (2) are expended solely for the support of the program identified in that schedule.	

Item

Amount

4. Of the amount appropriated in Schedule (1), \$2,629,957 shall be available for expenditure only for support of the Northern and Southern Occupational Health Centers as established by a contract entered into with the Department of Industrial Relations pursuant to Section 50.8 of the Labor Code.
5. The funds appropriated in Schedule (4) are for support of Program 45, Student Financial Aid, to provide financial aid to needy students attending the University of California, according to the nationally accepted needs analysis methodology.
6. Of the amount appropriated in Schedule (1), \$7,462,800 is for payment of energy service contracts in connection with the issuance of Public Works Board Energy Efficiency Revenue Bonds.
7. Of the amount appropriated in Schedule (5), \$2,700,000 is for repayment of \$25,000,000 borrowed by the University of California for deferred maintenance in the 1994–95 fiscal year. It is the intent of the Legislature to annually provide funds for that repayment purpose through the 2009–10 fiscal year.
8. Of the amount appropriated in Schedule (5), \$2,405,000 is for repayment of \$25,000,000 borrowed by the University of California for deferred maintenance in the 1995–96 fiscal year. It is the intent of the Legislature to annually provide funds for that repayment purpose through the 2010–11 fiscal year.
9. Of the funds appropriated in Schedule (1), \$475,000 shall be expended for the Center for Earthquake Engineering Research, contingent upon the center continuing to receive federal matching funds from the National Science Foundation.
10. Of the funds appropriated in Schedule (1), \$385,000 shall be expended for viticulture and enology research contingent upon the receipt of an equal amount of private sector matching funds.
11. Of the funds appropriated in Schedule (1), \$18,468,000 is for substance abuse research at the University of California, San Francisco campus in the Neurology Department.

Item	Amount
12. Of the amount appropriated in Schedule (1), \$1,609,000 is for the California State Summer School for Math and Science.	
13. Of the amount appropriated in Schedule (1), \$770,000 is for the Welfare Policy Research Project, per Article 9.7 (commencing with Section 11526) of Chapter 2 of Part 3 of the Welfare and Institutions Code.	
14. Of the amount appropriated in Schedule (1), \$770,000 shall be used for lupus research at the University of California at San Francisco.	
15. Of the amount appropriated in Schedule (1), \$1,539,000 shall be used to expand spinal cord injury research.	
16. Of the amount appropriated in Schedule (1), \$3,848,000 is to fund the Medical Investigation of Neurodevelopmental Disorders (MIND) Institute, including \$3,500,000 for research grants program.	
17. Notwithstanding Section 3.00, for the term of the financing, the University of California may use funds appropriated in Schedule (1) for debt services and costs associated with the purchase, renovation, and financing of a facility for the UC-Mexico research and academic programs in Mexico City. The amount to be financed shall not exceed \$7,000,000.	
18. The funds appropriated in Schedule (7) are for support of the Science Subject Matter Projects.	
19. The University of California shall offer enrollment in 2004–05 to every eligible applicant who was offered participation in the Guaranteed Transfer Option Program. The amount appropriated in Schedule (1) includes funding for the University of California to enroll 200,976 full-time-equivalent students (FTES). The Legislature expects the university to enroll this number FTES during the 2004–05 academic year. The university shall report to the Legislature by March 15, 2005, on whether it has met the 2004–05 enrollment goal. If the university does not meet this goal, the Director of Finance shall revert to the General Fund the total amount of enrollment funding associated with the share of the enrollment goal that was not met.	

Item	Amount
<p>20. Of the amount appropriated in Schedule (1), \$29,300,000 is appropriated for academic preparation programs identified pursuant to Provision 10 of Item 6440-001-0001 of the Budget Act of 2003. It is the intent of the Legislature that the university report on the use of the funds provided in this item. This report should include detailed information on the outcomes and effectiveness of academic preparation programs. The report should be submitted to the fiscal committee of each house of the Legislature by no later than March 15, 2005.</p>	
<p>6440-001-0007—For support of University of California, payable from the Breast Cancer Research Account</p>	14,920,000
<p>Provisions:</p>	
<p>1. Notwithstanding subdivision (a) of Section 2.00 of this act, the funds appropriated in this item shall be available for expenditure until June 30, 2007.</p>	
<p>6440-001-0046—For support of University of California, Institute of Transportation Studies, payable from the Public Transportation Account, State Transportation Fund</p>	980,000
<p>6440-001-0234—For support of the University of California, payable from the Research Account, Cigarette and Tobacco Products Surtax Fund.....</p>	14,253,000
<p>Provisions:</p>	
<p>1. The funds appropriated in this item are to be allocated for research regarding tobacco use, with an emphasis on youth and young adults, including, but not limited to, the effects of active and passive smoking, the primary prevention of tobacco use, nicotine addiction and its treatment, the effects of secondhand smoke, and public health issues surrounding tobacco use.</p>	
<p>2. Notwithstanding subdivision (a) of Section 2.00 of this act, the funds appropriated in this item are available for expenditure until June 30, 2007.</p>	
<p>6440-001-0308—For support of the University of California, payable from the Earthquake Risk Reduction Fund of 1996.....</p>	1,500,000
<p>Provisions:</p>	
<p>1. The funds appropriated in this item shall be expended for the Center for Earthquake Engineering</p>	

Item	Amount
<p>Research, contingent upon the center continuing to receive federal matching funds from the National Science Foundation.</p>	
<p>6440-001-0321—For support of University of California, payable from the Oil Spill Response Trust Fund.....</p>	1,300,000
<p>Provisions:</p>	
<p>1. The funds appropriated in this item shall be available to support the Oiled Wildlife Care Network.</p>	
<p>6440-001-0814—For support of University of California, for allocation by the Controller in accordance with the provisions of Section 8880.5 of the Government Code, as approved by the voters in Proposition 37 at the November 6, 1984, statewide general election, payable from the California State Lottery Education Fund</p>	24,011,000
<p>Provisions:</p>	
<p>1. All funds received pursuant to Proposition 37 that are allocable to the University of California pursuant to Section 8880.5 of the Government Code, and that are in excess of the amount appropriated in this item are hereby appropriated in augmentation of this item.</p>	
<p>6440-001-0890—For support of University of California, payable from the Federal Trust Fund.....</p>	5,000,000
<p>Provisions:</p>	
<p>1. The funds appropriated in this item are for the federal Gaining Early Awareness and Readiness for Undergraduate Programs (GEAR UP) (20 U.S.C. 1070a-21 et seq.). These funds are provided to the University of California as the fiscal agent for this intersegmental program.</p>	
<p>6440-001-0945—For support of the University of California, payable from the California Breast Cancer Research Fund.....</p>	927,000
<p>Provisions:</p>	
<p>1. Notwithstanding subdivision (a) of Section 2.00 of this act, the funds appropriated in this item shall be available for expenditure until June 30, 2007.</p>	
<p>6440-001-3054—For support of University of California</p>	3,237,000
<p>Provisions:</p>	
<p>1. The funds appropriated in this item shall be used to support the analysis of health care-related legislation, in accordance with Chapter 795 of the Statutes of 2002.</p>	

Item	Amount
6440-002-0001—For support of University of California.....	(55,000,000)
Provisions:	
1. Notwithstanding Section 2.00 of this act, the funds appropriated in this item are not available for expenditure or encumbrance prior to July 1, 2005. Claims for these funds shall be submitted by the University of California on or after July 1, 2005, and before October 1, 2005.	
2. No reserve may be established by the Controller for this appropriation before July 1, 2005.	
6440-003-0001—For support of the University of California, for payments on lease-purchase bonds.....	138,183,000
Schedule:	
(1) Rental, insurance and administrative payments140,152,000	
(2) Reimbursements..... -1,969,000	
Provisions:	
1. The Controller shall transfer funds appropriated in this item according to a schedule to be provided by the State Public Works Board. The schedule shall be provided on a monthly basis or as otherwise might be needed to ensure debt requirements are met.	
6440-004-0001—For support of University of California	20,000,000
Provisions:	
1. Funds shall be available for planning and startup costs associated with academic programs to be offered in the San Joaquin Valley and planning, startup costs, and ongoing support for the Merced campus, including the following: (a) site studies, infrastructure planning, community planning and development, long-range development plans, environmental studies, and other physical planning activities; (b) academic planning activities, support of academic program offerings prior to the opening of the new campus, and faculty recruitment; (c) the acquisition of instructional materials and equipment; and (d) ongoing operating support for faculty, staff, and other annual operating expense for the new campus.	
2. The University of California may enter into lease agreements with an option to purchase facilities in the Central Valley associated with the Merced campus. The lease agreement with an option to purchase shall be submitted to the Department of	

Item	Amount
Finance for review and concurrence prior to execution of the lease to ensure that the proposed lease is consistent with legislative intent. The submission of the lease shall also include an economic analysis detailing the cost benefit of the project.	
6440-005-0001—For support of University of California	4,750,000
Provisions:	
1. Notwithstanding any other provision of law, the funds appropriated in this item are available for expenditure without regard to fiscal year. Funds in this item are provided on a one-time basis to support the California Institutes for Science and Innovations.	
6440-011-0042—For transfer by the Controller from the State Highway Account, State Transportation Fund to the Earthquake Risk Reduction Fund of 1996.....	(1,000,000)
6440-301-0660—For capital outlay, University of California, payable from the Public Buildings Construction Fund	55,000,000
Schedule:	
Riverside Campus:	
(1) 99.05.195-Genomics Building— Preliminary plans, working drawings, construction and equipment..	55,000,000
Provisions:	
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, and construction of the projects authorized by this item.	
2. The State Public Works Board and the University of California may obtain interim financing for the project costs authorized in this item from any appropriate source including, but not limited to, the Pooled Money Investment Account pursuant to Sections 16312 and 16313 of the Government Code.	
3. The State Public Works 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 construction of the project, the costs of financing a debt service fund, and the cost of issuance of	

Item	Amount
permanent financing for the project. This additional amount may include interest payable on any interim financing obtained.	
4. Notwithstanding Section 2.00 of this act or any other provision of law, the appropriation made by this item is available for encumbrance until June 30, 2007.	
5. The University of California 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.	
6. The State Public Works Board shall not 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 section does not exempt the University of California from the requirements of the California Environmental Quality Act. This section is intended to be declarative of existing law.	
6440-301-6041—For capital outlay, University of California, payable from the Higher Education Capital Outlay Bond of 2004.....	236,571,000
Schedule:	
Universitywide:	
(1) 99.00.050-Northern Regional Library Facility, Phase 3—Equipment	499,000
Davis Campus:	
(2) 99.03.305-Robert Mondavi Institute for Wine and Food Science—Construction	32,135,000
(3) 99.03.310-Seismic Corrections, Phase 4—Construction	6,714,000
Los Angeles Campus:	
(4) 99.04.245-Geology Seismic Correction—Construction	9,489,000
(5) 99.04.265-Life Sciences Replacement Building—Preliminary plans.	2,200,000
(6) 99.04.320-CHS South Tower Seismic Renovation, Phase A—Working drawings.....	2,500,000

Item	Amount
Riverside Campus:	
(7) 99.05.180-Psychology Building— Construction	30,192,000
San Diego Campus:	
(8) 99.06.325-Pharmaceutical Sciences Building—Equipment.....	2,049,000
(9) 99.06.340-Student Academic Ser- vices Facility—Construction.....	19,461,000
(10) 99.06.350-Satellite Utilities Plant, Phase 1—Construction	8,200,000
(11) 99.06.355-Mayer Hall Addition and Renovation—Construction	25,096,000
(12) 99.06.360-Applied Physics and Mathematics Renovation— Construction	8,809,000
(13) 99.06.370-Music Building— Preliminary plans and working drawings.....	3,802,000
San Francisco Campus:	
(14) 99.02.145-Medical Sciences Building Improvements, Phase 2—Working drawings	1,632,000
Santa Barbara Campus:	
(15) 99.08.115-Psychology Building Addition and Renovation— Equipment	410,000
(16) 99.08.125-Biological Sciences Buildings Renovation— Construction	9,691,000
(17) 99.08.130-Education and Social Sciences Building—Construction..	49,706,000
Santa Cruz Campus:	
(18) 99.07.155-Seismic Corrections, Phase 3—Working drawings and construction	7,514,000
(19) 99.07.160-Alterations for Engi- neering, Phase 2—Construction....	4,002,000
(20) 99.07.165-McHenry Project— Working drawings.....	1,461,000
(21) 99.07.170-Alterations for Engi- neering, Phase 3—Preliminary plans and working drawings.....	389,000
(22) 99.07.175-Digital Arts Facility— Preliminary plans	1,330,000

Item		Amount
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Merced Campus:

(23)	99.11.035-Logistical Support/ Service Facilities—Construction and equipment	9,290,000
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Provisions:

1. Identified savings in funds encumbered from this general obligation bond fund for construction contracts for capital outlay projects, remaining after completion of a capital outlay project and upon resolution of all change orders and claims, may be used: (a) to begin working drawings for a project for which preliminary plan funds have been appropriated and the plans have been approved by the State Public Works Board consistent with the scope and cost approved by the Legislature as adjusted for inflation only, (b) to proceed further with the underground tank corrections program, (c) to perform engineering evaluations on buildings that have been identified as potentially in need of seismic retrofitting, (d) to proceed with design and construction of projects to meet requirements under the federal Americans with Disabilities Act of 1990, or (e) to fund minor capital outlay projects.

No later than March 1, 2005, the University of California shall provide the Legislative Analyst with a progress report showing the identified savings by project, and the purpose for which the identified savings were used.

No later than November 1, 2005, the University of California shall prepare a report showing (a) the identified savings by project and (b) the purpose for which the identified savings were used. This report shall be submitted to the Chair of the Joint Legislative Budget Committee and to the chairs of the fiscal committees in each house.

2. The funds provided under this item shall be available for expenditure only if the University of California requires the payment of prevailing wage rates by the contractors and subcontractors on all projects in this item and on all other capital outlay projects undertaken by the University of California that are funded using nonstate funds or are otherwise not financed with the funds appropriated in this item. This requirement shall represent a moratorium on granting further exceptions to paying prevailing wage until June 30, 2005.

Item	Amount
6440-302-6041—For capital outlay, University of California, payable from the 2004 Higher Education Capital Outlay Bond Fund	102,865,000
Schedule:	
Davis Campus:	
(1) 99.03.320-Life Sciences Alterations, Phase 2—Preliminary plans, working drawings and construction	3,506,000
(2) 99.03.325-Physical Sciences Expansion—Preliminary plans.....	2,235,000
(3) 99.03.330-Campus Wastewater Treatment Plant Expansion, Phase 1—Preliminary plans, working drawings and construction.....	3,543,000
Irvine Campus:	
(4) 99.09.345-Biological Sciences Unit 3—Construction.....	50,120,000
(5) 99.09.350-Engineering Unit 3—Preliminary plans and working drawings.....	3,440,000
Los Angeles Campus:	
(6) 99.04.230-Campbell Hall Seismic Correction—Construction.....	5,084,000
(7) 99.04.260-GSEIS Seismic Correction—Preliminary plans, working drawings and construction.....	2,680,000
Riverside Campus:	
(8) 99.05.185-Geology and Physics Building Renovation—Preliminary plans, working drawings and construction	17,777,000
(9) 99.05.190-Materials Science and Engineering Building—Preliminary plans and working drawings.....	3,749,000
San Diego Campus:	
(10) 99.06.365-SIO Research Support Facilities—Preliminary plans, working drawings and construction.....	3,426,000
Santa Barbara Campus:	
(11) 99.08.140-Electrical Infrastructure Renewal Phase 2—Working drawings and construction	7,305,000

Item

Amount

Provisions:

1. Notwithstanding Section 13332.11 of the Government Code or any other provision of law, the University of California may proceed with any phase of any project identified in the above schedule, including preparation of preliminary plans, working drawings, construction, or equipment purchase, without the need for any further approvals.
2. The University of California shall complete each project identified in the above schedule within the total funding amount specified in the schedule for that project. Notwithstanding Section 13332.11 of the Government Code or any other provision of law, the budget for any project to be funded from this item may be augmented by the University of California within the total appropriation made by this item, in an amount not to exceed 10 percent of the amount appropriated for that project. No funds appropriated by this item for equipment may be used for an augmentation under this provision, or be augmented from any other funds appropriated by this item. This condition does not limit the authority of the University of California to use non-state funds.
3. The University of California shall complete each project identified in the above schedule without any change to its scope. The scope of a project means, in this respect, the intended purpose of the project as determined by reference to the following elements of the budget request for that project submitted by the University of California to the Department of Finance: (a) the program elements related to project type, and (b) the functional description of spaces required to deliver the academic and supporting programs as approved by the Legislature.
4. Notwithstanding Section 2.00 of this act or any other provision of law, the appropriation made by this item is available for encumbrance during the 2004–05 and 2005–06 fiscal years, except that the funds appropriated for construction only must be bid during the 2004–05 fiscal year, and are available for expenditure through 2005–06, and that the funds appropriated for equipment purposes

Item

Amount

are available for encumbrance until June 30, 2007. For the purposes of encumbrance, funds appropriated for construction management and project contingencies purposes, as well as any bid savings, shall be deemed to be encumbered at the time a contract for that purpose is awarded; these funds also may be used to initiate consulting contracts necessary for management of the project during the liquidation period. Any savings identified at the completion of the project also may be used during the liquidation period to fund the purposes described in Provision 5.

5. Identified savings in a budget for a capital outlay project, as appropriated by this item, remaining after completion of a capital outlay project and upon resolution of all change orders and claims, may be used without further approval: (a) to augment projects consistent with Provision 2, (b) to proceed further with the underground tank corrections program, (c) to perform engineering evaluations on buildings that have been identified as potentially in need of seismic retrofitting, (d) to proceed with the design and construction of projects to meet requirements under the federal Americans with Disabilities Act of 1990, or (e) to fund minor capital outlay projects.
6. No later than December 1 of each year, the University of California shall submit a report outlining the expenditure for each project of the funds appropriated by this item to the Chairperson of the Joint Legislative Budget Committee, the chairpersons of the fiscal committees of each house, the Legislative Analyst, and the Director of Finance. The report also shall include the following elements: (a) a statement of the identified savings by project, and the purpose for which the identified savings were used; (b) a certification that each project as proceeding or as completed, has remained within its scope and the amount funded for that project under this item; and (c) an evaluation of the outcome of the project measured against performance criteria.
7. The projects identified in Schedules (4) and (5) of this item may utilize design-build construction consistent with practices, policies, and procedures of the University of California.

Item	Amount
<p>6440-401—Identified savings in funds encumbered from Higher Education Capital Outlay Bond Funds of 1986, 1988, 1990, 1992, 1996, 1998, and 2002 for capital outlay projects, remaining after completion of a capital outlay project and upon resolution of all change orders and claims, may be used: (a) to begin working drawings for a project for which preliminary plan funds have been appropriated and the plans have been approved by the State Public Works Board consistent with the scope and cost approved by the Legislature as adjusted for inflation only, (b) to proceed further with the underground tank corrections program, (c) to perform engineering evaluations on buildings that have been identified as potentially in need of seismic retrofitting, (d) to proceed with design and construction of projects to meet requirements under the federal Americans with Disabilities Act, and (e) for identified savings in funds encumbered from the Higher Education Capital Outlay Bond Funds of 1996, 1998, and 2002, to fund minor capital outlay projects.</p> <p>No later than December 1 of each year, the University of California shall prepare a report showing (a) the identified savings by project and (b) the purpose for which the identified savings were used. This report shall be submitted to the Chairperson of the Joint Legislative Budget Committee and to the chairs of the fiscal committees in each house.</p>	
<p>6440-490—Reappropriation, University of California. Notwithstanding any other provision of law, the balances as of June 30, 2004, of the appropriations provided in the following citations are reappropriated for the purposes and subject to the limitations, unless otherwise specified, provided for in the appropriations and shall be available for encumbrance and expenditure until June 30, 2005:</p> <p>0001—General Fund</p> <p>(1) Item 6440-001-0001 of Section 2.00 of the Budget Act of 2003 (Ch. 157, Stats. 2003).</p> <p>Provisions:</p> <p>1. Of the funds reappropriated in this item from Item 6440-001-0001 of Section 2.00 of the Budget Act of 2003 (Ch. 157, Stats. 2003), \$15,000,000 shall be available for deferred maintenance, special repair projects, and the replacement of instructional</p>	

Item	Amount
equipment. As of June 30, 2004, the balance of the funds from that item in excess of \$15,000,000 shall revert to the General Fund.	
2. The University of California shall report to the Department of Finance and the Joint Legislative Budget Committee the amount of the balance, on June 30, 2004, of Item 6440-001-0001 of Section 2.00 of the Budget Act of 2003 (Ch. 157, Stats. 2003), by September 30, 2004, and the expenditures made pursuant to this item by September 30, 2005.	
6600-001-0001—For support of Hastings College of the Law	8,119,000
Provisions:	
1. The appropriation made in this item is exempt from Section 31.00 of this act.	
2. Of the funds appropriated in this item, \$774,000 is for support of Program 40, Student Services, to provide financial aid to needy students attending the Hastings College of the Law, according to the nationally accepted needs analysis methodology.	
3. Notwithstanding any other law, funds in this item shall not be expended at a rate in excess of one-twelfth of the total amount in any month of the 2004–05 fiscal year.	
6600-001-0814—For support of Hastings College of the Law, for allocation by the Controller in accordance with the provisions of Section 8880.5 of the Government Code, as approved by the voters in Proposition 37 at the November 6, 1984, statewide general election, payable from the California State Lottery Education Fund	154,000
Provisions:	
1. All funds received pursuant to Proposition 37 that are allocable to the Hastings College of the Law pursuant to Section 8880.5 of the Government Code, and that are in excess of the amount appropriated in this item are hereby appropriated in augmentation of this item.	
6600-301-6028—For capital outlay, Hastings College of the Law.....	18,758,000
Schedule:	
(1) 60.10.002-200 McAllister Street Facility: Code Compliance Update—Construction	18,758,000

Item		Amount
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Provisions:

1. Identified savings in funds encumbered from this general obligation bond fund for construction contracts for capital outlay projects, remaining after completion of a capital outlay project and upon resolution of all change orders and claims, may be used: (a) to begin working drawings for a project for which preliminary plan funds have been appropriated and the plans have been approved by the State Public Works Board consistent with the scope and cost approved by the Legislature as adjusted for inflation only, (b) to proceed further with the underground tank corrections program, (c) to perform engineering evaluations on buildings that have been identified as potentially in need of seismic retrofitting, (d) to proceed with design and construction of projects to meet requirements under the federal Americans with Disabilities Act of 1990, or (e) to fund minor capital outlay projects.

6610-001-0001—For support of the California State University		2,383,638,000
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Schedule:

- | | | |
|---|--|----------------|
| (1) Support | | 3,736,029,000 |
| (2) Reimbursements | | -186,818,000 |
| (3) Amount payable from the Higher Education Fees and Income, CSU Fund (Item 6610-001-0498).... | | -1,165,573,000 |

Provisions:

1. The appropriations made in this item are exempt from Section 31.00 of this act, except as otherwise provided by the applicable sections of the Government Code referred to in Section 31.00.
2. Of the amount appropriated in this item, \$350,000 is for transfer to the Affordable Student Housing Revolving Fund for the purpose of subsidizing interest costs in connection with bond financing for construction of affordable student housing at the Fullerton and Hayward campuses in accordance with Article 3 (commencing with Section 90085) of Chapter 8 of Part 55 of the Education Code.
3. Of the amount appropriated in this item, \$1,878,000 is for repayment of the \$17,000,000 financed for the California State University through a third party for deferred maintenance

Item

Amount

- projects in the 1994–95 fiscal year. It is the intent of the Legislature to annually provide funds for that repayment purpose through the 2009–10 fiscal year.
4. Of the amount appropriated in this item, \$2,309,000 is for repayment of the \$24,000,000 financed for the California State University through a third party for deferred maintenance projects in the 1995–96 fiscal year. It is the intent of the Legislature to annually provide funds for that repayment purpose through the 2010–11 fiscal year.
 5. Of the amount appropriated in this item, \$1,700,000 is for support of the converted Stockton Developmental Center into the Regional and Continuing Education Center at CSU, Stanislaus.
 6. Of the amount appropriated in this item, \$33,785,000 is provided for student financial aid grants. These financial aid funds shall be provided to needy students according to the nationally accepted needs analysis methodology.
 7. Notwithstanding Section 70000 of the Education Code, Governor’s Teaching Fellowships may not be awarded in 2004–05 and no funding is provided for this purpose.
 8. The amount appropriated in Schedule (1) includes funding for the California State University to enroll 324,120 full-time equivalent students (FTES). It is the intent of the Legislature that the university enrolls this number of FTES during the 2004–05 academic year. The university shall submit to the Legislature a preliminary report on March 15, 2005, and a final report on May 1, 2005, on whether it has met this enrollment goal. If the university does not meet this goal, the Director of Finance shall revert to the General Fund the total amount of enrollment funding associated with the share of the enrollment goal that was not met.
 9. Of the amount appropriated in Schedule (1), \$52,000,000 is appropriated for academic preparation and student support services programs. The university will redirect \$45,000,000 and the state will provide \$7,000,000 to support the Early Academic Assessment Program, Campus-Based Out-

Item	Amount
reach programs and the Educational Opportunity Program. It is the intent of the Legislature that the university report on the outcomes and effectiveness of the Early Academic Assessment Program. The report shall be submitted to the fiscal committee of each house no later than March 15, 2005.	
6610-001-0498—For support of the California State University, for payment to Item 6610-001-0001, payable from the Higher Education Fees and Income, CSU Fund.....	1,165,573,000
Provisions:	
1. All funds received in the Higher Education Fees and Income, CSU Fund, that are in excess of the amount appropriated in this item are hereby appropriated in augmentation of this item.	
6610-001-0890—For support of the California State University, payable from the Federal Trust Fund.....	41,739,000
Provisions:	
1. All funds deposited in the Federal Trust Fund for the California State University for the purposes of this item and that are in excess of the amount appropriated in this item are hereby appropriated in augmentation of this item and are exempt from Section 28.00 of this act, pursuant to subdivision (a) of Section 89753 of the Education Code.	
6610-002-0001—For support of the California State University for transfer to and in augmentation of Item 6610-001-0001, for the purpose of providing direct costs and administrative overhead expenses for the Assembly, Senate, Executive and Judicial Fellows programs and the Center for California Studies	2,725,000
Schedule:	
(1) Center for California Studies— Fellows Program.....	600,000
(2) Center for California Studies— Other	36,500
(3) Assembly Fellows	515,500
(4) Senate Fellows	515,500
(5) Executive Fellows	515,000
(6) Judicial Fellows	374,000
(7) LegiSchool Project	112,500
(8) Sacramento Semester Internship Program.....	56,000
6610-003-0001—For support of the California State University for payments on lease-purchase bonds.....	61,595,000

Item	Amount
Schedule:	
(1) Rental, insurance and administrative payments	62,037,000
(2) Reimbursements	-442,000
Provisions:	
1. The Controller shall transfer funds appropriated in this item according to a schedule to be provided by the State Public Works Board. The schedule shall be provided on a monthly basis or as otherwise might be needed to ensure debt requirements are met.	
6610-301-0574—For capital outlay, California State University, payable from the 1998 Higher Education Capital Outlay Bond Fund	7,959,000
Schedule:	
(1) 06.52.105-Chico: Telecommunications Infrastructure—Construction.	7,959,000
6610-301-6041—For capital outlay, California State University, payable from the 2004 Higher Education Capital Outlay Bond Fund	39,415,000
Schedule:	
(1) 06.48.315-Systemwide: Minor Capital Outlay—Preliminary plans, working drawings and construction	15,225,000
(1.5) 06.51.008.000-California Maritime Academy—Acquisition	1,914,000
(1.7) 06.54.081-Dominguez Hills: Educational Resource Center Addition—Preliminary plans and working drawings	1,725,000
(2) 06.64.081-Hayward Seismic Upgrade, Warren Hall—Preliminary plans.....	675,000
(2.5) 06.71.110-Long Beach: Peterson Hall 3 Replacement Building—Preliminary plans	1,361,000
(3) 06.74.007-Monterey Bay: Infrastructure Improvements—Preliminary plans, working drawings and construction	18,515,000
Provisions:	
1. Identified savings in funds encumbered from this general obligation bond fund for construction contracts for capital outlay projects, remaining after completion of a capital outlay project and upon resolution of all change orders and claims, may be	

Item

Amount

used prior to the appropriation reversion date: (a) to begin working drawings for a project for which preliminary plans funds have been appropriated and the plans have been approved by the State Public Works Board consistent with the scope and cost approved by the Legislature as adjusted for inflation only, (b) to proceed further with the underground tank corrections program, (c) to perform engineering evaluations on buildings that have been identified as potentially in need of seismic retrofitting, or (d) to proceed with design and construction of projects to meet requirements under the federal Americans with Disabilities Act.

No later than March 1, 2005, the California State University shall provide the Legislative Analyst with a progress report showing the identified savings, by project, and the purpose for which the identified savings were used.

No later than November 1, 2005, the California State University shall prepare a report showing the identified savings, by project, and the purpose for which the identified savings were used. This report shall be submitted to the Chairperson of the Joint Legislative Budget Committee and to the chairpersons of the fiscal committees in each house.

6610-302-6041—For capital outlay, California State University, payable from the 2004 Higher Education Capital Outlay Bond Fund 273,330,000
 Schedule:

- (1) 06.50.064-Bakersfield: Math and Computer Science Building—Preliminary plans, working drawings and construction 18,975,000
- (3) 06.56.093-Fresno: Library Addition and Renovation—Preliminary plans..... 1,677,000
- (4) 06.62.088-Fullerton: Auditorium/Fine Arts Instructional Facility—Equipment 3,625,000
- (5) 06.62.095-Fullerton: College of Business and Economics Building—Preliminary plans, working drawings and construction..... 47,417,000

Item	Amount
(6) 06.67.098-Humboldt: Forbes PE Complex Renovation—Preliminary plans.....	1,313,000
(8) 06.73.097-Los Angeles: Science Replacement Building, Wing B—Preliminary plans, working drawings and construction.....	31,082,000
(9) 06.51.009-Maritime Academy: Simulation Center—Preliminary plans, working drawings and construction.....	8,306,000
(10) 06.82.083-Northridge: Engineering Renovation, Phase II—Equipment.....	3,429,000
(11) 06.82.085-Northridge: Science I Replacement—Preliminary plans, working drawings and construction.....	46,193,000
(12) 06.98.108-Pomona: Science Renovation, Seismic—Preliminary plans, working drawings and construction.....	20,298,000
(13) 06.78.089-San Bernardino: Science Building Renovation/Addition, Phase I Annex—Equipment.....	2,556,000
(14) 06.78.093-San Bernardino: College of Education Building—Preliminary plans, working drawings and construction.....	48,697,000
(15) 06.78.094-San Bernardino: Palm Desert Campus, Phase II—Equipment.....	1,382,000
(16) 06.96.115-San Luis Obispo: Engineering/Architecture Renovation and Replacement, Phase II—Working drawings and construction.....	28,589,000
(17) 06.68.120-San Marcos: Craven Hall Renovation—Preliminary plans, working drawings and construction.....	6,366,000
(18) 06.68.121-San Marcos: Academic Hall II, Building 13—Equipment..	3,425,000

Item	Amount
Provisions:	
1. Notwithstanding Section 13332.11 of the Government Code or any other provision of law, the California State University may proceed with any phase of any project identified in the above schedule, including preparation of preliminary plans, working drawings, construction, or equipment purchase, without the need for any further approvals.	
2. The California State University shall complete each project identified in the above schedule within the total funding amount specified in the schedule for that project. Notwithstanding Section 13332.11 of the Government Code or any other provision of law, the budget for any project to be funded by this item may be augmented by the California State University within the total appropriation made by this item, in an amount not to exceed 10 percent of the amount appropriated for that project. No funds appropriated in this item for equipment may be used for an augmentation under this provision, or be augmented from any other funds appropriated by this item. This condition does not limit the authority of the California State University to use nonstate funds for these purposes.	
3. The California State University shall complete each project identified in the above schedule without any change to its scope. The scope of a project means, in this respect, the intended purpose of the project as determined by reference to the following elements of the budget request for that project submitted by California State University to the Department of Finance: (a) the program elements related to project type, and (b) the functional description of spaces required to deliver the academic and supporting programs as approved by the Legislature.	
4. Identified savings in a budget for a capital outlay project, as appropriated by this item, remaining after completion of a capital outlay project and upon resolution of all change orders and claims, may be used: (a) to begin working drawings for a project for which preliminary plans have been approved by the State Public Works Board consistent with the scope and cost approved by the Legislature as adjusted for inflation only, (b) to	

Item

Amount

- proceed further with the underground tank corrections program, (c) to perform engineering evaluations on buildings identified as potentially in need of seismic retrofitting, (d) to proceed with design and construction of projects to meet requirements under the federal Americans with Disabilities Act of 1990, (e) to fund minor capital outlay projects, or (f) to fund feasibility studies for capital outlay.
5. No later than March 1 of each year, the California State University shall submit a report detailing the expenditure for each project of the funds appropriated by this item to the Chairperson of the Joint Legislative Budget Committee, the chairperson of the fiscal committees of each house, the Legislative Analyst, and the Director of Finance. The report also shall include the following elements: (a) a statement of the identified savings by project, and the purpose for which the identified savings were used; (b) a certification that each project as proceeding or as completed, has remained within its scope and the amount funded for that project under this item; and (c) an evaluation of the outcome of the project measured against performance criteria.
 6. Notwithstanding Section 2.00 of this act or any other provision of law, the appropriation made in this item is available for encumbrance during the 2004–05 and 2005–06 fiscal years, except that the funds appropriated for construction only must be bid by the 2004–05 fiscal year, and will be available for expenditure through the 2005–06 fiscal year, and funds appropriated for equipment purposes are available for encumbrance through 2006–07. For the purposes of encumbrance, funds appropriated for construction management and project contingencies purposes, as well as any bid savings, shall be deemed to be encumbered at the time a contract for that purpose is awarded; these funds also may be used to initiate consulting contracts necessary for management of the project during the liquidation period. Any savings identified at the completion of the projects also may be used during the liquidation period to fund the purposes described in subdivisions (a), (b), (c), (d), (e), and (f) of Provision 4.

Item	Amount
<p>6610-401—Identified savings in funds encumbered from Higher Education Capital Outlay Bond Funds of 1986, 1988, 1990, 1992, 1996, 1998, and 2002 for capital outlay projects, remaining after completion of a capital outlay project and upon resolution of all change orders and claims, may be used: (a) to begin working drawings for a project for which preliminary plan funds have been appropriated and the plans have been approved by the State Public Works Board consistent with the scope and cost approved by the Legislature as adjusted for inflation only, (b) to proceed further with the underground tank corrections program, (c) to perform engineering evaluations on buildings that have been identified as potentially in need of seismic retrofitting, or (d) to proceed with design and construction of projects to meet requirements under the federal Americans with Disabilities Act.</p> <p>No later than November 1, 2005, the California State University shall prepare a report showing (a) the identified savings by project and (b) the purpose for which the identified savings were used. This report shall be submitted to the Chairperson of the Joint Legislative Budget Committee and to the chairs of the fiscal committees in each house.</p>	
<p>6610-490—Reappropriation, California State University. Notwithstanding any other provision of law, the balances of the appropriations provided in the following citations are reappropriated for the purposes and subject to the limitations, unless otherwise specified, provided for in the appropriations and shall be available for encumbrance or expenditure until June 30, 2005:</p> <p>0001—General Fund</p> <p>(1) Item 6610-001-0001, Budget Act of 2003 (Ch. 157, Stats. 2003)</p> <p>Provisions:</p> <p>1. Of the funds reappropriated in this item from Item 6610-001-0001, Budget Act of 2003 (Ch. 157, Stats. 2003), up to \$15,000,000 shall be available for the general support of the California State University. This \$15,000,000 limitation applies only to reappropriations generated from system-wide allocations. As of June 30, 2004, the balance generated from systemwide allocations in excess of \$15,000,000 shall revert to the General Fund.</p>	

Item	Amount
2. The California State University shall, by September 30, 2004, report to the Department of Finance and the Joint Legislative Budget Committee the amount of the balance as of June 30, 2004, of Item 6610-001-0001 of the Budget Act of 2003 (Ch. 157, Stats. 2003), and a proposed expenditure plan for that balance. The California State University shall report by September 30, 2005, on the expenditures made pursuant to this item.	
0498—Higher Education Fees and Income, CSU Fund	
(1) Item 6610-001-0498, Budget Act of 2003 (Ch. 157, Stats. 2003).	
6610-493—Reappropriation, California State University. The balances of the appropriations provided in the following citations are reappropriated for the purposes and subject to the limitations, unless otherwise specified, in those appropriations:	
6028—Higher Education Capital Outlay Bond of 2002	
(1) Item 6610-302-6028, Budget Act of 2002 (Ch. 379, Stats. 2002)	
Monterey Campus:	
(8.5) 06.74.006-Monterey Bay: Library—Construction	
Pomona Campus:	
(20) 06.98.107-Pomona: Library Addition and Renovation—Construction	
(2) Item 6610-301-6028, Budget Act of 2003 (Ch. 157, Stats. 2003)	
California Maritime Academy:	
(2) 06.51.008-California Maritime Academy—Acquisition	
6610-494—Reappropriation, California State University. Notwithstanding any other provision of law, the period to liquidate encumbrances of the following citations shall be extended as stated:	
0574—1998 Higher Education Capital Outlay Bond Fund—Available for liquidation of encumbrance until June 30, 2005.	
(1) Item 6610-302-0574, Budget Act of 1999 (Ch. 50, Stats. 1999), as reappropriated by Item 6610-492, Budget Act of 2003 (Ch. 157, Stats. 2003), San Francisco State University	
(8) 06.84.098-San Francisco State University: Renovate Hensill Hall (Seismic)—Construction	

Item	Amount
(2) Item 6610-302-0574, Budget Act of 2000 (Ch. 52, Stats. 2000), California State University, Long Beach	
(3) 06.71.105-Long Beach: Peterson Hall Addition—Construction	
6028—2002 Higher Education Capital Outlay Bond Fund—Available for liquidation of encumbrance until December 31, 2007.	
(1) Item 6610-302-6028, Budget Act of 2002 (Ch. 379, Stats. 2002), California State University, San Luis Obispo	
(19) 06.96.108-San Luis Obispo: Engineering/Architecture Renovation and Replacement, Phase II—Preliminary plans, working drawings, and construction	
6610-495—Reversion, California State University. As of June 30, 2004, the sum of \$6,600,000 from the appropriation provided in the following citation shall revert to the balance of the fund from which the appropriation was made:	
0001—General Fund	
(1) Item 6610-301-0001, Budget Act of 2000 (Ch. 52, Stats. 2000), as reappropriated by Item 6610-491 (Ch. 157, Stats. 2003)	
(2) 06.52.105-Chico: Telecommunications Infrastructure—Construction	
6870-001-0001—For support of Board of Governors of the California Community Colleges.....	8,648,000
Schedule:	
(1) 10-Apportionments.....	819,000
(2) 20-Special Services and Operations	14,715,000
(3) 30.01-Administration.....	3,921,000
(4) 30.02-Administration—Distributed	-3,921,000
(5) Reimbursements.....	-6,886,000
Provisions:	
1. Funds appropriated in this item may be expended or encumbered to make one or more payments under a personal services contract of a visiting educator pursuant to Section 19050.8 of the Government Code, a long-term special consultant services contract, or an employment contract between an entity that is not a state agency and a person who is under the direct or daily supervision of	

Item	Amount
a state agency, only if all of the following conditions are met:	
(a) The person providing service under the contract provides full financial disclosure to the Fair Political Practices Commission in accordance with the rules and regulations of the commission.	
(b) The service provided under the contract does not result in the displacement of any represented civil service employee.	
(c) The rate of compensation for salary and health benefits for the person providing service under the contract does not exceed by more than 10 percent the current rate of compensation for salary and health benefits determined by the Department of Personnel Administration for civil service personnel in a comparable position. The payment of any other compensation or any reimbursement for travel or per diem expenses shall be in accordance with the State Administrative Manual and the rules and regulations of the Department of Personnel Administration.	
6870-001-0574—For support of Board of Governors of the California Community Colleges, Program 20.40.010-Facilities Planning, payable from the 1998 Higher Education Capital Outlay Bond Fund	1,340,000
6870-001-0909—For support for the Board of Governors of the California Community Colleges, Program 20.30.020-Instructional Improvement and Innovation, payable from the Special Grant Cash Account of the Fund for Instructional Improvement Program	11,000
6870-001-0925—For support of Board of Governors of the California Community Colleges, Program 20.30.050-Economic Development, payable from the California Business Resources and Assistance Innovation Network Fund	10,000
6870-101-0001—For local assistance, Board of Governors of the California Community Colleges (Proposition 98).....	2,810,212,000
Schedule:	
(1) 10.10.010-Apportionments	1,908,539,000
(2) 10.10.020-Basic Skills and Apprenticeship.....	41,696,000

Item	Amount
(3) 10.10.030-Growth for Apportionment.....	148,120,000
(4) 10.10.040-Partnership for Excellence.....	225,000,000
(5) 20.10.005-Student Financial Aid Administration	47,338,000
(7) 20.10.020-Disabled Students.....	85,977,000
(8) 20.10.045-Special Services for CalWORKs Recipients	34,580,000
(9) 20.10.060-Foster Care Education Program.....	1,754,000
(10) 20.10.070-Matriculation.....	62,539,000
(11) 20.20.020-Academic Senate for the Community Colleges	467,000
(12) 20.20.041-Equal Employment Opportunity pursuant to Ch. 1169, Statutes of 2002.....	1,747,000
(13) 20.20.050-Part-time Faculty Health Insurance	1,000,000
(14) 20.20.051-Part-time Faculty Compensation	50,828,000
(15) 20.20.055-Part-time Faculty Office Hours.....	7,172,000
(16) 20.30.011-Telecommunications and Technology Services.....	23,397,000
(17) 20.30.050-Economic Development.....	35,790,000
(18) 20.30.070-Transfer Education and Articulation.....	1,974,000
(19) 20.40.026-Physical Plant and Instructional Support.....	27,345,000
(20) 20.10.010-Extended Opportunity Programs and Services and Special Services.....	98,791,000
(21) 20.30.045-Fund for Student Success	6,158,000

Provisions:

1. The funds appropriated in Schedules (1), (2), (3), (4), (5), (7), (8), (9), (10), (12), (13), (14), (15), \$22,050,000 in Schedule (16), (17), (19), and (20) are for transfer by the Controller during the 2004–05 fiscal year to Section B of the State School Fund.
2. The amount appropriated in Schedule (1) reflects the intent of the Legislature to defer \$200,000,000 for apportionments to the 2005–06 fiscal year,

Item	Amount
<p data-bbox="245 199 828 256">pursuant to separate legislation enacted for the 2004–05 fiscal year.</p> <p data-bbox="210 256 828 578">3. Notwithstanding any other provision of law or regulation, apportionment funding for community college districts shall be based on the greater of the current year or prior year level of FTES, consistent with K–12 declining enrollment practices pursuant to Section 42238.5 of the Education Code. Decreases in FTES shall result in a revenue reduction at the district’s average level of apportionment funding per FTES and shall be made in the year following the initial year of decrease in FTES.</p> <p data-bbox="210 578 828 1078">4. (a) The amount appropriated in Schedule (4) shall be made available to districts in the same manner as the general apportionment funding in Schedule (1), and shall be made available in the same amount provided to each district for the Partnership for Excellence program in the 2003–04 fiscal year, including the funding deferred for this program pursuant to Section 84321 of the Education Code, and notwithstanding the basic aid status of any district. As a condition of receiving these funds, the districts shall first agree to assure that courses related to student needs for transfer, basic skills, and vocational and workforce training are accorded the highest priority and are provided to the maximum extent possible within budgeted funds.</p> <p data-bbox="245 1078 828 1286">(b) On or before January 10, 2005, the Board of Governors of the California Community Colleges shall develop and adopt a clear methodology for determining which courses are considered transfer, basic skills, or vocational and workforce training for the purposes of this provision.</p> <p data-bbox="245 1286 828 1579">(c) The Board of Governors of the California Community Colleges shall annually assess and report to the Legislature, on or before April 15, district and college data on the same educational outcome measures reported to the Legislature as part of the Partnership for Excellence program pursuant to Section 84754 of the Education Code. As part of the April 15, 2005, report, the Chancellor of the California Community Colleges shall include his</p>	

Item

Amount

- or her findings and determinations regarding the definition of transfer, basic skill, vocational, and workforce training courses, as required by subdivision (b).
- (d) Acceptance of funds appropriated in Schedule (4) shall constitute concurrence by the district or college to collect and provide to the Chancellor of the California Community Colleges all information necessary to quantify baseline performance and annually report changes in outcome measures to the chancellor if, in the judgment of the chancellor, current Management Information System (MIS) data are insufficient for the purpose of any of the approved measures.
5. Of the funds appropriated in Schedule (1), Apportionments:
- (a) Up to \$100,000 is for a maintenance allowance, pursuant to regulations adopted by the board of governors.
- (b) Up to \$500,000 is to reimburse colleges for the costs of federal aid repayments related to assessed fees for fee waiver recipients. This reimbursement only applies to students who completely withdraw from college before the census date.
- (c) Notwithstanding any other provision of law or regulation, the chancellor shall not reduce district workload obligations for a lack of a funded cost-of-living adjustment.
6. Of the funds appropriated in Schedule (1), \$80,000,000 is for equalization, to be allocated pursuant to legislation enacted during the 2003–04 Regular Session. These funds shall not be considered Program Improvement Funds pursuant to Title 5 of the California Code of Regulations.
7. Notwithstanding any other provision of law, \$28,967,000 of the funds appropriated in Schedule (2) is for allocation to community college districts in the 2004–05 fiscal year for the purposes of funding FTES in courses in basic skills, including English-as-a-second-language courses and workforce preparation courses for newly legalized immigrants, to the extent the total FTES claimed by a district for the 2004–05 fiscal year exceeds the level of total FTES funded for that

Item

Amount

- district in the 2004–05 fiscal year. The Chancellor of the California Community Colleges shall develop criteria for allocating these funds.
8. Of the funds appropriated in Schedule (2), the funds not required for the 2004–05 fiscal year to meet the demand for the program funded under that schedule shall be made available on a one-time basis for general apportionment under Schedule (1) of this item, provided that no transfer shall occur prior to May 15, 2005.
 9. (a) Of the amount appropriated in Schedule (2), up to \$12,729,000 shall be available as necessary upon certification by the Chancellor of the California Community Colleges for the purpose of funding community college-related and supplemental instruction pursuant to Section 3074 of the Labor Code as provided in Section 8152 of the Education Code. No community college district shall use funds available under this provision to offer any new apprenticeship training program or the expansion of any existing program unless the new program or expansion has been approved by the chancellor.
 - (b) Notwithstanding Section 8152 of the Education Code, each 60-minute hour of teaching time devoted to each indentured apprentice enrolled in and attending classes of related and supplemental instruction as provided under Section 3074 of the Labor Code shall be reimbursed at the rate of four dollars and eighty-six cents (\$4.86) per hour. For purposes of this provision, each hour of teaching time may include up to 10 minutes for passing time and breaks.
 10. Notwithstanding any other provision of law, funds appropriated in Schedule (3) of this item shall only be allocated for growth in full-time-equivalent students (FTES), on a district-by-district basis, as determined by the Chancellor of the California Community Colleges. The chancellor shall not include any FTES from concurrent enrollment in physical education, dance, recreation, study skills, and personal development courses and other courses in conflict with existing law for the purpose of calculating a district's three-year overcap adjustment. The board

Item

Amount

- of governors shall implement the criteria required by provision 5(a) of the Budget Act of 2003 for the allocation of funds appropriated in Schedules (1) and (3), so as to assure that courses related to student needs for transfer, basic skills and vocational/workforce training are accorded the highest priority and are provided to the maximum extent possible within budgeted funds.
- (b) Of the amount appropriated in Schedule (3), a total of \$27,000,000 shall be allocated to districts in proportion to their unfunded FTES as measured at the second principal apportionment for the 2003–04 fiscal year.
11. (a) Of the funds appropriated in Schedule (5), not less than \$10,338,000 is available to reimburse community college districts for the provision of Board of Governors (BOG) of the California Community Colleges fee waiver awards.
- (b) (1) Of the amount appropriated in Schedule (5), \$2,800,000 shall be for a contract with a community college district to conduct a statewide media campaign to promote the general message to prospective students as follows: (1) the California Community Colleges remain affordable; (2) financial aid and tax credits are available to cover enrollment fees and help with books and other costs; and (3) the active encouragement of contact between pupils and local CCC financial aid offices. Any funds used from this source to produce radio, television, or mail campaigns must emphasize the availability of financial aid, the easiest and most reliable method of accessing the aid, a contact telephone number, an Internet address, where applicable, and the physical location of a financial aid office. Any mail campaign must give priority to existing pupils, recent high school graduates, and 12th graders. The outreach and information campaign should target its efforts in high schools, welfare offices, unemployment offices, churches, community

Item

Amount

- centers, and any other location that will most effectively reach low-income and disadvantaged students who must overcome barriers in accessing postsecondary education. The community college district awarded the contract shall consult with the Chancellor of the California Community Colleges and the Student Aid Commission prior to performing any activities to ensure appropriate coordination with any other state efforts in this area and ensure compliance with this provision.
- (2) Of the amount appropriated in Schedule (5), not more than \$34,200,000 shall be for direct contact with potential and current financial aid applicants. Each CCC campus shall receive a minimum allocation of \$50,000. The remainder of the funding shall be allocated to campuses based upon a formula reflecting full-time-equivalent students (FTES) weighted by a measure of low-income populations as demonstrated by BOG fee waiver program participation within a district. It is the intent of the Legislature, to the extent that funds are provided in this section, that all campuses provide additional staff resources to increase both financial aid participation and student access to low-income and disadvantaged students who must overcome barriers in accessing postsecondary education. Funds may be used for screening current students for possible financial aid eligibility and offering these students personal assistance in accessing financial aid, providing individual help in multiple languages for families and students in filling out the necessary paperwork to apply for financial aid, and increasing financial aid staff to process additional financial aid forms.
- (3) Funds allocated to a community college district for financial aid personnel, outreach determination of financial need,

Item

Amount

- and delivery of student financial aid services shall supplement, and shall not supplant, the level of funds allocated for the administration of student financial aid programs during the 2001–02 fiscal year.
- (4) It is the intent of the Legislature that the Chancellor’s Office of the California Community Colleges provide the Legislature with a report by no later than April 1, 2005, on the use of the funds allocated pursuant to Provision 11(b), including the distribution of the funds, specific uses of the funds, strategies employed to reach low-income and disadvantaged students potentially eligible for financial aid, and the extent to which districts were successful in increasing the number of students accessing financial aid, particularly the maximum Pell Grant award.
- (5) It is the intent of the Legislature to monitor the impact of the 2004–05 fiscal year fee increase on student enrollment and access to financial aid. To assist the Legislature in this effort, the Chancellor of the California Community Colleges shall provide two reports to the Legislature. The first, to be submitted by November 15, 2004, shall be a preliminary report comparing systemwide enrollment, and other external factors as determined by the chancellor, including, where applicable, the change in financial aid applications and BOG waivers processed, preliminary data on the types and frequency of contact and the overall costs of the outreach devoted to this, from fall 2004. The second, to be submitted by September 1, 2005, shall be a final report comparing enrollment in the 2003–04 academic year with enrollment in the 2004–05 academic year. Both reports shall include FTES and headcount data for total enrollment, as well as for student subgroups based on age, race,

Item

Amount

- ethnicity, gender, BOG waiver status, and other external factors.
12. Of the funds appropriated in Schedule (20), \$86,069,000 is for Extended Opportunity Programs and Services (EOPS) in accordance with Article 8 (commencing with Section 69640) of Chapter 2 of Part 42 of the Education Code. Funds provided in this item for EOPS shall be available to students on all campuses within the California Community College system, including those students on new campuses or in new districts. \$12,722,000 is for funding, at all colleges, the Cooperative Agencies Resources for Education (CARE) program in accordance with Article 4 (commencing with Section 79150) of Chapter 9 of Part 48 of the Education Code. The Board of Governors of the California Community Colleges shall allocate funds on a priority basis and to local programs on the basis of need for student services.
- 12.5. Of the funds appropriated in Schedule (21), \$6,158,000 is for additional targeted student services, to be expended as follows:
- (1) \$1,921,000 is for the Puente Project to support up to 75 colleges. These funds are available if matched by \$200,000 of private funds and the participating community colleges and University of California campuses maintain their 1995–96 support level for the Puente Project. All funding shall be allocated directly to participating districts in accordance with their participation agreement.
 - (2) Up to \$2,459,000 is for the Mathematics, Engineering and Science Achievement (MESA) Program. For each dollar allocated, the recipient district shall provide one dollar in matching funds.
 - (3) No less than \$1,778,000 is for the Middle College High School Program. With the exception of fully compliant special part-time students at the community colleges pursuant to Section 48802 and 76001 of the Education Code, student workload based on participation in the Middle College High School Program shall not be eligible for community college state appor-

Item

Amount

- tionment. Further, no community college state apportionment shall be made available for physical education classes, non-credit classes, nor other courses specified in Provision 10.
13. (a) The funds appropriated in Schedule (7) are for assisting districts in funding the excess direct instructional cost of providing special support services or instruction, or both, to disabled students enrolled at community colleges, and for state hospital programs, as mandated by federal law.
 - (b) Of the amount appropriated in Schedule (7), \$3,945,000 shall be used to address deficiencies identified by the federal Office of Civil Rights (OCR), as determined by the chancellor's office.
 - (c) Of the amount appropriated in Schedule (7) at least \$943,000 shall be used for support of the High Tech Centers for activities including, but not limited to, training of district employees, staff and students in the use of specialized computer equipment for the disabled. All High Tech Centers shall meet standards developed by the chancellor's office. Colleges that receive these augmentations shall not supplant existing resources provided to the centers.
 - (d) Notwithstanding any other provision of law, of the funds appropriated in Schedule (7) of this item, \$1,000,000 shall be for state hospital adult education programs at the hospitals served by the Coast, Kern, and West Valley Community College Districts since the 1986–87 fiscal year. If adult education services at any of the three hospitals are not supported by the community colleges in the 2004–05 fiscal year, the associated funds shall, upon order of the Department of Finance, after 30 days' notice to the Chairperson of the Joint Legislative Budget Committee, be transferred to the State Department of Developmental Services (DDS). For any transfer of funds to DDS during the 2004–05 fiscal year, the Proposition 98 base funding levels for community colleges and DDS shall be adjusted accordingly.

Item

Amount

14. The funds appropriated in Schedule (8), Special Services for CalWORKs recipients, are for the purpose of assisting welfare recipient students and those in transition off of welfare to achieve long-term self-sufficiency through coordinated student services offered at community colleges, including: workstudy, other educational related work experience, job placement services, child care services, and coordination with county welfare offices to determine eligibility and availability of services. All services funded in this schedule shall be for current CalWORKs recipients or prior CalWORKs recipients who are in transition off of cash assistance for no more than two years. Current cash assistance recipients may utilize these services until their initial educational objectives are met. Former recipients in transition off of cash assistance may utilize these services for a period of up to two years after leaving cash assistance subject to the conditions of this provision. These funds shall be used to supplement and not supplant existing funds and services provided for CalWORKs recipients attending community colleges. The chancellor shall develop an equitable method for allocating funds to all districts and colleges based on the relative numbers of CalWORKs recipients in attendance and shall allocate funds for the following purposes:
- (a) Job placement.
 - (b) Coordination with county welfare offices and other local agencies, including local workforce investment boards.
 - (c) Curriculum development and redesign.
 - (d) Child care and workstudy.
 - (e) Instruction.
 - (f) Postemployment skills training and related skills.

Of the amount appropriated in Schedule (8) of this item, \$15,000,000 shall be for child care and shall not require a district match. For the remaining funds, districts shall, as a condition of receipt of these funds, provide a \$1 match for every \$1 provided by the state.

Funds utilized for subsidized child care shall be for children of CalWORKs recipients through campus-based centers or parental choice vouch-

Item

Amount

ers at rates and with rules consistent with those applied to related programs operated by the State Department of Education in the 2004–05 fiscal year, including eligibility, reimbursement rates, and parental contribution schedules. Subsidized campus child care for CalWORKs recipients may be provided during the period they are engaged in qualifying state and federal work activities through attainment of their initial education and training plan and for up to three months thereafter or until the end of the academic year, whichever period of time is greater.

Funds utilized for workstudy shall be used solely for payments to employers that currently participate in campus-based workstudy programs or are providing work experiences that are directly related to and in furtherance of student educational programs, provided that those payments may not exceed 75 percent of the wage for the workstudy positions, and the employers shall pay at least 25 percent of the wage for the workstudy position. These funds may be expended only if the total hours of education, employment, and workstudy for the student are sufficient to meet both state and federal minimum requirements for qualifying work-related activities.

Funds may be used to provide credit or non-credit classes for CalWORKs students if a district has committed all of its funded FTES and is unable to offer the additional instructional services to meet the demand for CalWORKs students. This determination shall be based on fall enrollment information. Districts shall make application to the chancellor's office by October 15 of each year. If the chancellor approves the use of funds for direct instructional workload, the chancellor's office shall submit a report to the Joint Legislative Budget Committee by November 15, 2004, that (1) identifies the enrollment of new CalWORKs students, (2) states whether and why additional classes were needed to accommodate the needs of CalWORKs students, and (3) sets forth an expenditure plan for the balance of funds.

As a condition of receipt of the funds appropriated in Schedule (8), by the fourth week following the end of the semester or quarter term

Item

Amount

commencing in January 2005, each participating community college shall submit to the chancellor's office a report, in the format specified by the chancellor in consultation with the State Department of Social Services, that includes, but is not limited to, the funded components, the number of hours of child care provided, the average monthly enrollment of CalWORKs dependents served in child care, the number of workstudy hours provided, the hourly salaries and type of jobs, the number of students being case managed, the short-term programs available, the student participation rates, and other outcome data. It is intended that, to the extent practical, reporting from colleges utilize data gathered for federal reporting requirements at the state and local level. Further, it is intended that the chancellor's office compile the information for annual reports to the Legislature, the Governor, the Legislative Analyst, and the Departments of Finance and Social Services by November 15 of each year.

First priority for expenditures of any funds appropriated in Schedule (8) shall be in support of current CalWORKs recipients. However, if caseloads are insufficient to fully utilize all of the funding in this schedule in a cost beneficial way, it is intended that up to \$5,000,000 of the funds subject to local matching requirements may be allocated for providing postemployment services to former CalWORKs recipients who have been off of cash assistance for no longer than two years to assist them in upgrading skills, job retention, and advancement. Allowable services include direct instruction that cannot be funded under available growth funding, child care to support attendance in these classes consistent with this provision, job development and placement services, and career counseling and assessment activities which cannot be funded through other programs. Child care services may only be provided for periods commensurate with a student's need for postemployment training within the two-year transitional period.

Prior to allocation of funds for postemployment services, the chancellor shall first secure the approval of the Department of Finance for

Item

Amount

the allocations, complete a cumulative report on the outcomes, activities, and cost-effectiveness of the program no later than November 15, 2003, in compliance with the Budget Acts of 1998 (Ch. 324, Stats. 1998) and 1999 (Ch. 50, Stats. 1999) and this act, and shall provide the rationale and justification for the proposed allocation of postemployment services to districts for transitional students.

If a district is unable to fully expend its share of child care funds, it may request that the chancellor's office approve a reallocation to other CalWORKs purposes authorized by this provision, subject to all pertinent limitations and district match required for these purposes under this provision.

15. Funds appropriated in Schedule (8) of this item have been budgeted to meet the state's Temporary Assistance for Needy Families maintenance-of-effort requirement pursuant to the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193) and may not be expended in any way that would cause their disqualification as a federally allowable maintenance-of-effort expenditure.
16. The funds in Schedule (9) of this item shall be allocated to provide foster parent training. Funds shall be allocated in such a manner as to ensure priority for training required by Section 1529.2 of the Health and Safety Code. Districts shall make services available to foster parents to satisfy the requirements of Section 1529.2 of the Health and Safety Code as a first priority. Remaining funds may be used for services to foster child relative caretakers and for additional parenting skills, thereafter.
- 16.5. (a) Funds appropriated in Schedule (10) are for the purpose of student matriculation pursuant to Article 1 (commencing with Section 78210) of Chapter 2 of Part 48 of the Education Code.
- (b) Of the amount appropriated in Schedule (10), an amount equal to \$14,842,670 shall be allocated to community college districts on a one-to-one matching funds basis to

Item

Amount

provide matriculation services, including, but not limited to, orientation, assessment, and counseling, for students enrolled in designated noncredit classes and programs who may benefit most, as determined by the Chancellor of the California Community Colleges pursuant to Sections 78216 to 78218, inclusive, of the Education Code.

17. (a) \$9,550,000 of the funds provided in Schedule (16) of this item shall be for the purpose of supporting technical and application innovations and for coordination of activities that serve to maximize the utility of the technology investments of the community college system towards improving learning outcomes. Allocations shall be made by the chancellor, based on criteria and guidelines as developed by the chancellor, on a competitive basis through the RFA/RFP application process as follows:
 - (1) \$2,000,000, or as much as necessary, shall be available for a statewide digital uplink for the purpose of delivering statewide satellite services to system colleges and districts related to instruction, student support, and administration.
 - (2) \$2,300,000 is for the development and implementation of a systemwide audio bridging and telephony capability of the 4C Net backbone to facilitate collaboration of faculty, students, and staff in instruction, student services, and shared governance activities.
 - (3) Any remaining funds shall be available for centers to provide regional coordination for technical assistance and planning, cooperative purchase agreements, and faculty and staff development. All other provisions as specified in Provision 17(b)(3) of Item 6870-101-0001 of Section 2.00 of the Budget Act of 1996 (Ch. 162, Stats. 1996) shall apply.
- (b) \$12,500,000 of the funds provided in Schedule (16) shall be available for allocations to districts. It is the intent of the Legislature

Item

Amount

- that these funds be used by colleges to maintain the technology capabilities specified in Provision 21(a) of Item 6870-101-0001 of the Budget Act of 2003 (Ch. 157, Stats. 2003). These funds shall not supplant existing funds used for those purposes, and colleges shall match maintenance and ongoing costs with other funds as provided by Provision 21(a) of Item 6870-101-0001 of the Budget Act of 2003 (Ch. 157, Stats. 2003).
- (c) Of the funds provided in Schedule (16), \$1,347,000 shall be available for grants to districts to fund California Virtual University distance education centers, for instructing faculty in teaching courses online, and other expenses for conversion of courses for distance education. The funds appropriated in this item shall not supplant existing funds and shall be subject to established fiscal controls, annual reporting and accountability requirements specified by the chancellor. The chancellor shall develop criteria for the allocation of these funds. As a condition of receipt of the funds, colleges are required to submit to the chancellor's office reports in a format specified by the chancellor sufficient to document the value and productivity of this program, including, but not limited to, numbers and nature of courses converted, and the amount of distance education instructional workload services provided as a result of these courses. It is intended that the chancellor's office further develop the reporting criteria for participating colleges and submit that for review along with an annual progress report on program implementation to the Legislative Analyst, Office of the Secretary for Education, and the Department of Finance no later than November 1, 2004, for review and comment.
18. Of the funds provided in Schedule (17) for the Economic and Workforce Development Program:
- (a) \$18,984,027 is allocated for grants for regional business resources assistance and innovation network centers. Each grant awarded to a district for Centers for Interna-

Item

Amount

tional Development shall contain sufficient funds, as determined by the chancellor, for the continued operation of Mexican International Trade Centers.

- (b) \$5,612,281 is allocated for Industry-Driven Regional Education and Training Collaboratives. These grants shall be made on a competitive basis and the award amounts shall not be restricted to any predetermined limit, but rather shall be funded on their individual merits.
- (c) \$3,800,000 is allocated for statewide network leadership, organizational development, coordination, information and support services, or other program purposes.
- (d) \$3,393,692 is available for Job Development Incentive Training programs focused on job creation for public assistance recipients. Any annual savings from this subdivision shall only be available for expenditure for one-time activities listed under subdivision (j) of Section 88531 of the Education Code.
- (e) The following provisions apply to the expenditure of funds within subdivisions (a) and (b) above: Funds allocated for centers and regional collaboratives shall seek to maximize the use of state funds for subdivisions (g) through (j) of Section 88531 of the Education Code. Funds allocated to districts for purposes of subdivisions (g) and (i) of Section 88531 of the Education Code for performance-based training and student internships shall be matched by a minimum of \$1 of private business and industry funding for each \$1 of state funds. Funds allocated for purposes of subdivision (h) of Section 88531 of the Education Code for credit and noncredit instruction may be transferred to Schedule (1) or (3) to facilitate distribution at the chancellor's discretion. Any funds that become available from network centers due to savings, discontinuance, or reduction of amounts shall first be made available for additional allocations in subdivision (b) above to increase the level of subsidized training otherwise available.

Item

Amount

- (f) \$4,000,000 is allocated to continue enrollment growth provided for community college nursing programs pursuant to paragraph (2) of subdivision (a) of Section 2 of Chapter 514 of the Statutes of 2001.
- (g) Funds allocated by the board of governors under this provision may not be used by community college districts to supplant existing courses or contract education offerings. The chancellor shall ensure that funds are spent only for expanded services and shall implement accountability reporting for districts receiving these funds to ensure that training, credit, and noncredit programs remain relevant to business needs. Programs that do not demonstrate continued relevance and support by business shall not be eligible for continued funding. The board of governors shall consider the level of involvement and financial commitments of business and industry as primary factors in making awards. The chancellor shall incorporate grant requirements into its guidelines for audits of Economic Development grants.
- (h) A primary objective of the Economic Development program is to maximize instruction, to prepare students for entry-level jobs, to increase skills of the current workforce, and to stimulate the growth of businesses through training so that more jobs are created. The chancellor shall submit an annual report to the Legislative Analyst, the budget and fiscal committees of the Legislature, and the Department of Finance, commencing March 1, 2003, and each March 1 annually thereafter, that includes the amount provided to each economic development regional center and each industry-driven regional education and training collaborative, and to the extent practicable, the total number of hours of contract education services, performance-based training, credit and noncredit instruction, and job placements created as a result of this program by each center and collaborative.

Item	Amount
<p>19. Of the funds appropriated in Schedule (18), \$589,000 is for Project Assist, \$835,000 is for the California Articulation Number (CAN) system, \$550,000 is for faculty articulation workshops through fiscal year 2004–05. The chancellor’s office shall report to the Department of Finance and the Legislature by September 1, 2004, on the status of these projects and any additional resource needs to complete articulation for major coursework and common course numbering.</p> <p>20. The funds appropriated in Schedule (19) are available for the following purposes:</p> <p style="padding-left: 2em;">(a) Scheduled maintenance and special repairs of facilities, replacement of instructional equipment, and replacement of library materials. The chancellor shall allocate funds to districts on the basis of actual reported FTES, and may establish a minimum allocation per district. As a condition of receiving and expending these funds for maintenance or special repairs, a district shall certify that it will increase its operations and maintenance spending from the 1995–96 fiscal year by the amount it allocates from this appropriation for maintenance and special repairs, plus an equal amount to be provided from district discretionary funds. The chancellor may waive all or a portion of the matching requirement based upon a review of a district’s financial condition. The question of whether a district has complied with its resolution shall be reviewed under the annual audit of that district. For every \$3 a district expends from this appropriation for replacement of instructional equipment or library materials, the recipient district shall provide \$1 in matching funds. The funds provided for instructional equipment and library materials shall not be used for personal services costs or operating expenses.</p> <p style="padding-left: 2em;">(b) Hazard substances, abatement, cleanup and repairs.</p> <p style="padding-left: 2em;">(c) Architectural barrier removal projects that meet the requirements of the federal Americans with Disabilities Act of 1990 and seis-</p>	

Item

Amount

mic retrofit projects limited to \$400,000. Districts that receive funds for architectural barrier removal projects shall provide a \$1 match for every \$1 provided by the state. The amounts in Schedule (19) of this item shall be available for expenditure until June 30, 2006.

- 21. Pursuant to Sections 69648.5, 78216, and 84850, and subdivision (b) of Section 87108, of the Education Code, the Board of Governors of the California Community Colleges may allocate funds appropriated in Schedules (7), (10), (12), and (20) by grant or contract, or through the apportionment process, to one or more districts for the purpose of providing program evaluation, accountability, monitoring, or program development services, as appropriate under the applicable statute.

6870-101-0814—For local assistance, Board of Governors of the California Community Colleges, for allocation by the Controller in accordance with the provisions of Section 8880.5 of the Government Code, as approved by the voters in Proposition 37 at the November 6, 1984, statewide general election, payable from the California State Lottery Education Fund 143,313,000

Provisions:

- 1. All funds received pursuant to Proposition 37 that are allocable to community college districts pursuant to Section 8880.5 of the Government Code, that are in excess of the amount appropriated in this item, are hereby appropriated in augmentation of this item.

6870-101-0909—For local assistance, Board of Governors of the California Community Colleges, payable from the Community College Fund for Instructional Improvement 302,000

Schedule:

- (2) 20.30.022-Instructional Improvement Loans..... 302,000

6870-101-0925—For local assistance, Board of Governors of the California Community Colleges, Program 20.30.050-Economic Development, payable from California Business Resources and Assistance Innovation Network Fund 15,000

Item	Amount
6870-102-0959—For transfer by the Controller, upon order of the Director of Finance, from the Foster Parent Training Fund to the General Fund	(5,383,000)
6870-103-0001—For local assistance, Board of Governors of the California Community Colleges (Proposition 98), to allow selected community colleges to make required lease-purchase payments	57,381,000
Schedule:	
(1) Rental and administration	57,777,000
(2) Reimbursements	-396,000
Provisions:	
1. The funds appropriated in this item are for transfer by the Controller to Section B of the State School Fund.	
2. The Controller shall transfer funds appropriated in this item according to a schedule to be provided by the State Public Works Board. The schedule shall be provided on a monthly basis or as otherwise might be needed to ensure debt requirements are met.	
6870-111-0001—For local assistance, Board of Governors of the California Community Colleges.....	0
Schedule:	
(1) 10.20-CalWORKs Services.....	8,000,000
(2) 20.10.015-AmeriCorps Program.....	4,079,000
(3) 20.10.060-Foster Parent Training ...	6,112,000
(4) 20.30.030-Vocational Education.....	56,741,000
(6) Reimbursements.....	-74,932,000
Provisions:	
1. The amounts appropriated in Schedules (1) and (4) of this item are for transfer by the Controller to Section B of the State School Fund.	
2. The funds appropriated in Schedule (1) of this item are to fund additional fixed, variable, and one-time costs for providing support services and instruction for CalWORKs students which include, but are not limited to: job placement and coordination; curriculum development and redesign; child care and workstudy; and instruction. As a condition of receiving funding, colleges are required to submit a plan to the chancellor’s office on how the funds will be utilized, which shall be based on collaboration with county welfare offices regarding the services and instruction that are needed for CalWORKs recipients.	

Item	Amount
6870-295-0001—For local assistance, Board of Governors of the California Community Colleges (Proposition 98), for reimbursement, in accordance with provisions of Section 6 of Article XIII B of the California Constitution or Section 17561 of the Government Code, of the costs of any new program or increased level of service of an existing program mandated by statute or executive order, for disbursement by the Controller.....	2,000
Schedule:	
(1) 98.01.000.184-Health Fees (Ch. 1, Stats. 1984, 2nd Ex. Sess.).....	1,000
(2) 98.01.028.498-Law Enforcement Jurisdiction Agreements (Ch. 284, Stats. 1998)	1,000
Provisions:	
1. Allocation of funds appropriated in this item to the appropriate local entities shall be made by the Controller in accordance with the provisions of each statute or executive order that mandates the reimbursement of the costs, and shall be audited to verify the actual amount of the mandated costs in accordance with subdivision (d) of Section 17561 of the Government Code. Audit adjustments to prior year claims may be paid from this item. Funds appropriated by this item may be used to provide reimbursement pursuant to Article 5 (commencing with Section 17615) of Chapter 4 of Part 7 of Division 4 of Title 2 of the Government Code.	
2. If any of the scheduled amounts are insufficient to provide full reimbursement of costs, the Controller may, upon notifying the Director of Finance in writing, augment those deficient amounts from the unencumbered balance of any other scheduled amounts therein. No order may be issued pursuant to this provision unless written notification of the necessity therefor is provided to the chairperson of the committee in each house which considers appropriations and the Chairperson of the Joint Legislative Budget Committee or his or her designee.	

Item	Amount
6870-301-0574—For capital outlay, Board of Governors of the California Community Colleges, to be allocated by the board of governors to community college districts for expenditure as set forth in the schedule below, payable from the 1998 Higher Education Capital Outlay Bond Fund	2,978,000
Schedule:	
San Bernardino Community College District	
Valley College	
(1) 40.46.205-Child Development Center—Construction	2,978,000
6870-301-0660—For capital outlay, Board of Governors of the California Community Colleges, to be allocated by the board of governors to community college districts for expenditure as set forth in the schedule below, payable from the Public Buildings Construction Fund	3,528,000
Schedule:	
San Luis Obispo County Community College District	
Cuesta College	
(1) 40.51.111-Library Addition and Reconstruction—Construction	3,528,000
Provisions:	
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 construction of the project authorized by this item.	
2. The State Public Works Board and the Chancellor’s Office of the California Community Colleges may obtain interim financing for the project costs authorized in this item from any appropriate source including, but not limited to, the Pooled Money Investment Account pursuant to Section 16312 and 16313 of the Government Code.	
3. The State Public Works 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 construction of the project, the costs of financing a debt service fund, and the cost of issuance of permanent financing for the project. This additional amount may include interest payable on any interim financing obtained.	

Item	Amount
4. The State Public Works Board shall not be deemed a lead or responsible agency for purposes of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) for any activities under the State Building Construction Act of 1955 (Part 10b (commencing with Section 15800) of Division 3 of Title 2 of the Government Code). This section does not exempt the district from the requirements of the California Environmental Quality Act. This section is intended to be declarative of existing law.	
5. Notwithstanding Section 2.00 of this act or any other provision of law, the appropriation made by this item is available for encumbrance until June 30, 2008.	
6870-301-6028—For capital outlay, Board of Governors of the California Community Colleges to be allocated by the Board of Governors to community college districts for expenditure as set forth in the schedule below, payable from the 2002 Higher Education Capital Outlay Bond Fund	35,584,000
Schedule:	
Allan Hancock Joint Community College District	
Allan Hancock College	
(1) 40.02.117-Skills Center Replacement—Construction and equipment.....	5,500,000
Cerritos Community College District	
Cerritos College	
(2) 40.07.116-Seismic Retrofit, Metal Trades—Construction.....	1,171,000
(3) 40.07.117-Seismic Retrofit, Electronics—Construction	1,276,000
Coast Community College District	
Golden West College	
(4) 40.11.206-Structural Repair Campuswide—Construction	2,497,000
Foothill-DeAnza Community College District	
Foothill College	
(5) 40.15.211-Seismic Replacement-Student Services—Equipment.....	658,000
(6) 40.15.212-Seismic Replacement-Field Locker Rooms—Construction.....	1,621,000

Item	Amount
(7) 40.15.213-Seismic Replacement-Maintenance Building—Construction.....	955,000
Grossmont-Cuyamaca Community College District Grossmont College	
(8) 40.19.209-Infrastructure Correction—Preliminary plans, working drawings and construction.....	1,569,000
Los Angeles Community College District Los Angeles Pierce College	
(9) 40.26.503-Infrastructure Correction—Construction.....	615,000
Mira Costa Community College District Mira Costa College	
(10) 40.31.110-Creative Arts Building Replacement—Construction.....	9,770,000
North Orange County Community College District Cypress College	
(11) 40.36.101-Piazza Infrastructure Repair—Construction.....	7,595,000
San Bernardino Community College District San Bernardino Valley College	
(12) 40.46.205-Child Development Center—Equipment.....	125,000
Santa Barbara Community College District Santa Barbara City College	
(14) 40.53.121-Physical Science Renovation—Construction.....	1,721,000
Ventura County Community College District Oxnard College	
(15) 40.65.206-Warehouse Replacement—Preliminary plans and working drawings	125,000
West Valley-Mission Community College District West Valley College	
(16) 40.69.106-Math and Science Replacement—Preliminary plans and working drawings.....	386,000
Provisions:	
1. The project identified in Schedule (8) is subject to the following:	
(a) Notwithstanding Section 13332.11 of the Government Code, the community college districts shall complete each project identified within the total funding amount specified in the schedule for that project. This condition	

Item

Amount

does not limit the authority of the districts to use nonstate funds to fund or augment these projects with State Public Works Board approval.

- (b) The community college districts shall complete each project identified without any change to its scope. The scope of a project means, in this respect, the intended purpose of the project as determined by reference to the following elements of the budget request for that project submitted by the Board of Governors to the Department of Finance: (1) the program elements related to project type, and (2) the functional description of spaces required to deliver the academic and supporting programs as approved by the Legislature.
- (c) Notwithstanding Section 2.00 of this act or any other provision of law, the appropriation made by this item is available for encumbrance during the 2004–05 and 2005–06 fiscal years, except that the funds appropriated for equipment purposes are available for encumbrance until June 30, 2007. For the purposes of encumbrance, funds appropriated for construction management and project contingencies purposes, as well as any bid savings, shall be deemed to be encumbered at the time a contract is awarded; these funds also may be used to initiate consulting contracts necessary for management of the project during the liquidation period.

6870-301-6041—For capital outlay, Board of Governors of the California Community Colleges, to be allocated by the board of governors to community college districts for expenditure as set forth in the schedule below, payable from the 2004 Higher Education Capital Outlay Bond Fund 584,777,000

Schedule:

- Allan Hancock Joint Community College District
- Allan Hancock College
- (1) 40.02.114-Science Health Occupations Complex—Construction and equipment..... 15,541,000
- Barstow Community College District
- Barstow College
- (2) 40.04.102-Remodel for Efficiency—Construction 2,927,000

Item	Amount
Cabrillo Community College District	
Cabrillo College	
(3) 40.06.111-Visual/Performing Arts Complex—Construction and equipment.....	21,493,000
Chaffey Community College District	
Chaffey College	
(4) 40.08.112-Health/Physical Science Building Renovation—Preliminary plans and working drawings.....	757,000
Coast Community College District	
Orange Coast College	
(5) 40.11.302-Learning Resource Center—Construction and equipment.....	21,192,000
Compton Community College District	
Compton College	
(6) 40.12.111-Performing Arts and Recreation Complex—Construction and equipment.....	12,362,000
Contra Costa Community College District	
Los Medanos College	
(7) 40.13.314-Math, Science, Technology Building—Construction and equipment.....	20,547,000
El Camino Community College District	
El Camino College	
(8) 40.14.110-Learning Resource Center—Preliminary plans and working drawings	464,000
Foothill-De Anza Community College District	
De Anza College	
(9) 40.15.109-Chemistry Building Conversion to Math Lab—Equipment	836,000
(10) 40.15.110-Student and Community Services—Equipment	531,000
(11) 40.15.111-Kirsch Center for Environmental Studies—Equipment.....	410,000
(12) 40.15.112-Bookstore Conversion to Art Building—Equipment.....	307,000
(13) 40.15.113-Science Center—Equipment	1,769,000
Foothill College	
(14) 40.15.207-Life Sciences—Construction and equipment.....	9,645,000

Item	Amount
Grossmont-Cuyamaca Community College District Cuyamaca College	
(15) 40.19.117-Communication Arts Building—Construction and equipment.....	14,719,000
Grossmont College	
(16) 40.19.208-New Digital Arts Labs—Construction and equip- ment.....	4,869,000
Hartnell Community College District Hartnell College	
(17) 40.20.102-Center for Assessment and Lifelong Learning—Prelim- inary plans and working drawings.	658,000
Kern Community College District Porterville College	
(18) 40.22.305-Library Expansion— Construction and equipment	7,960,000
Long Beach Community College District Long Beach City College PCC	
(19) 40.25.119-Library/Learning Re- source Center—Preliminary plans and working drawings.....	331,000
(20) 40.25.120-Industrial Technology Center-Manufacturing—Construc- tion and equipment	10,124,000
Long Beach City College LAC	
(21) 40.25.201-Library/LRC Renova- tion/Addition—Preliminary plans and working drawings.....	898,000
Los Angeles Community College District Los Angeles City College	
(22) 40.26.204-Child Development Center—Construction and equip- ment.....	4,855,000
(23) 40.26.207-Learning Resource Center—Construction.....	16,333,000
Los Angeles Harbor College	
(24) 40.26.302-Applied Technology Building—Construction and equipment.....	8,345,000
(25) 40.26.303-Adaptive PE and Physi- cal Education Bldg. Renovation— Preliminary plans and working drawings.....	428,000

Item	Amount
Los Angeles Pierce College	
(26) 40.26.505-Child Development Center—Construction and equipment.....	2,451,000
West Los Angeles College	
(27) 40.26.907-Science Complex—Construction and equipment	8,307,000
Los Rios Community College District	
American River College	
(28) 40.27.104-Fine Arts Modernization—Construction	3,546,000
Cosumnes River College	
(29) 40.27.210-Science Building Modernization—Construction	2,516,000
Sacramento City College	
(30) 40.27.310-Cosmetology and Graphics Buildings Modernization—Construction.....	1,101,000
Merced Community College District	
Merced College	
(31) 40.30.116-Science Building Remodel—Construction and equipment.....	11,910,000
(32) 40.30.117-Learning Resource Center—Construction.....	9,542,000
Los Banos Center	
(33) 40.30.300-Site Development and Permanent Facilities—Construction and equipment	10,167,000
Monterey Peninsula Community College District	
Monterey Peninsula College	
(34) 40.32.103-Child Development Center—Preliminary plans and working drawings	267,000
Mt. San Antonio Community College District	
Mt. San Antonio College	
(35) 40.33.114-Agriculture Sciences Complex—Preliminary plans, working drawings, construction and equipment	9,284,000
Mt. San Jacinto Community College District	
Menifee Valley Center	
(36) 40.34.212-Technology Building—Preliminary plans and working drawings.....	669,000

Item	Amount
Palo Verde Community College District Palo Verde College (37) 40.37.103-Physical Education Complex—Construction and equipment.....	11,768,000
Rancho Santiago Community College District Santiago Canyon College (38) 40.41.201-Science Building— Construction	10,972,000
Rio Hondo Community College District Rio Hondo College (39) 40.43.108-Learning Resource/ High Tech Center—Preliminary plans and working drawings.....	1,874,000
Riverside Community College District Riverside College (40) 40.44.103-Quadrangle Building Modernization—Construction and equipment.....	12,554,000
South Orange County Community College District Irvine Valley College (41) 40.45.103-Business Technology and Innovation Center—Prelim- inary plans, working drawings, construction and equipment	12,475,000
San Francisco Community College District City College of San Francisco (43) 40.48.107-Joint Use Instructional Facility—Preliminary plans	1,038,000
Chinatown Center (44) 40.48.108-Campus Building— Construction and equipment	33,785,000
John Adams Center (45) 40.48.201-John Adams Moderni- zation—Preliminary plans and working drawings	1,932,000
San Jose-Evergreen Community College District Evergreen Valley College (46) 40.50.105-Arts Complex— Construction and equipment	9,624,000
San Jose City College (47) 40.50.204-Applied Sciences Center—Construction and equip- ment	4,166,000

Item	Amount
San Luis Obispo County Community College District	
Cuesta College	
(48) 40.51.113-Reconstruct and add Laboratories—Preliminary plans and working drawings.....	560,000
North County Center	
(49) 40.51.201-Learning Resource Center—Construction and equipment.....	10,981,000
(50) 40.51.202-Technology and Trades Complex—Preliminary plans and working drawings	520,000
San Mateo County Community College District	
Cañada College	
(51) 40.52.103-Library/Learning Resource/Student Services Center—Construction	18,920,000
College of San Mateo	
(52) 40.52.207-Student Services Consolidation—Construction	9,790,000
Santa Barbara Community College District	
Santa Barbara City College	
(53) 40.53.122-High Technology Center—Preliminary plans and working drawings	1,400,000
Santa Clarita Community College District	
College of the Canyons	
(54) 40.54.113-Laboratory Expansion—Construction and equipment	7,721,000
Sequoias Community College District	
College of the Sequoias	
(55) 40.56.111-Physical Education and Disabled Program Center—Construction and equipment	6,576,000
(56) 40.56.114-Old Library Reconstruction, Second Floor—Construction and equipment	2,534,000
Sierra Joint Community College District	
Sierra College	
(57) 40.58.107-New Classroom/Labs—Construction.....	14,933,000
Sonoma County Community College District	
Petaluma Center	
(58) 40.61.200-Petaluma Center Phase II—Construction and equipment...	26,121,000

Item	Amount
Santa Rosa Jr. College	
(59) 40.61.403-Plover Library Conversion—Preliminary plans and working drawings	270,000
Chabot-Las Positas Community College District	
Las Positas College	
(60) 40.62.216-Multi-Disciplinary Education Building—Construction and equipment	11,163,000
Southwestern Community College District	
Southwestern College	
(61) 40.63.106-Student Services Center—Equipment.....	1,064,000
Otay Mesa Center	
(62) 40.63.200-Phase I Buildings—Equipment	3,033,000
State Center Community College District	
Fresno City College	
(63) 40.64.106-Applied Technology Modernization—Construction and equipment.....	11,617,000
(64) 40.64.108-Student Services Building Remodel—Preliminary plans and working drawings.....	321,000
Willow International Center	
(65) 40.64.500-Academic Facilities and Site Development Phase I—Construction	34,684,000
Ventura County Community College District	
Moorpark College	
(66) 40.65.111-Reconstruction of Library Building—Construction and equipment.....	2,956,000
Ventura College	
(67) 40.65.306-Communication Building Modernization (Bldg. F)—Preliminary plans and working drawings.....	117,000
Victor Valley Community College District	
Victor Valley College	
(68) 40.66.116-Seismic Replacement Auxiliary Gym—Preliminary plans and working drawings.....	244,000
(69) 40.66.117-Speech/Drama Studio Addition—Construction and equipment.....	8,884,000

Item	Amount
West Kern Community College District	
Taft College	
(70) 40.68.101-Child Development Center—Construction and equipment.....	2,501,000
(71) 40.68.102-Remodel for Efficiency—Construction and equipment.....	7,350,000
West Valley-Mission Community College District	
West Valley College	
(72) 40.69.105-Campus Technology Center—Construction.....	8,115,000
Yosemite Community College District	
Modesto Junior College	
(73) 40.70.211-Auditorium Renovation/Expansion—Construction and equipment.....	12,450,000
Yuba Community College District	
Yuba College	
(74) 40.71.107-Engineering, Math and Science Remodel—Construction and equipment	7,651,000
Woodland Center	
(75) 40.71.307-Learning Resource/Technology Center—Construction and equipment	21,057,000
Copper Mountain Community College District	
Copper Mountain College	
(76) 40.72.100-Multi-use Sports Complex—Construction and equipment.....	12,995,000
Provisions:	
1. The projects identified in Schedules (35) and (41) are subject to the following:	
(a) Notwithstanding Section 13332.11 of the Government Code, the community college districts shall complete each project identified within the total funding amount specified in the schedule for that project. This condition does not limit the authority of the districts to use nonstate funds to fund or augment these projects with State Public Works Board approval.	
(b) The community college districts shall complete each project identified without any change to its scope. The scope of a project means, in this respect, the intended purpose of	

Item

Amount

the project as determined by reference to the following elements of the budget request for that project submitted by the board of governors to the Department of Finance: (1) the program elements related to project type and (2) the functional description of spaces required to deliver the academic and supporting programs as approved by the Legislature.

- (c) Notwithstanding Section 2.00 of this act or any other provision of law, the appropriation made by this item is available for encumbrance during the 2004–05 and 2005–06 fiscal years, except that the funds appropriated for equipment purposes are available for encumbrance until June 30, 2007. For the purposes of encumbrance, funds appropriated for construction management and project contingencies purposes, as well as any bid savings, shall be deemed to be encumbered at the time a contract is awarded; these funds also may be used to initiate consulting contracts necessary for management of the project during the liquidation period.

6870-486—Reappropriation (Proposition 98), Board of Governors of the California Community Colleges. The sum of \$5,383,000 is hereby reappropriated on a one-time basis from the Proposition 98 Reversion Account, for support of the Foster Parent Training Program. Of this amount, \$2,383,000 shall be for support of the program in the 2003–04 fiscal year, and \$3,000,000 for support of the program in the 2004–05 fiscal year.

6870-490—Reappropriation, Board of Governors of the California Community Colleges. The balances of the appropriations provided in the following citations are reappropriated for the purposes and subject to the limitations, unless otherwise specified, provided in those appropriations:

0574—Higher Education Capital Outlay Bond Fund of 1998

- (1) Item 6870-301-0574, Budget Act of 2001 (Ch. 106, Stats. 2001), as amended by Chapter 891 of the Statutes of 2001, and as reappropriated by Item 6870-490, Budget Act of 2002 (Ch. 379, Stats. 2002) and Budget Act of 2003 (Ch. 157, Stats. 2003)

Item	Amount
Compton Community College District Compton College	
(15) 40.12.107-Seismic Replacement/Expansion LRC—Equipment	
(16) 40.12.109-Child Development Center Equipment	
Long Beach Community College District Long Beach City College, PCC	
(26) 40.25.116-Child Development Center—Construction	
San Diego Community College District District Office	
(53) 40.47.001-Seismic Retrofit District Headquarters Building—Construction	
6028—2002 Higher Education Capital Outlay Bond Fund	
(1) Item 6870-301-6028, Budget Act of 2003 (Ch. 157, Stats. 2003)	
Compton Community College District Compton College	
(10) 40.12.111-Performing Arts and Recreation Complex—Working drawings	
Foothill-DeAnza Community College District Foothill College	
(17) 40.15.211-Seismic Replacement-Student Services—Construction	
Glendale Community College District Glendale College	
(21) 40.18.122-Allied Health/Aviation Lab—Construction	
Grossmont-Cuyamaca Community College District Cuyamaca College	
(23) 40.19.116-Science & Technology Mall—Construction	
Long Beach Community College District Long Beach City College	
(31) 40.25.120-Industrial Technology Center-Manufacturing—Working drawings	
Los Angeles Community College District Los Angeles Southwest College	
(35) 40.26.607-Child Development Center—Construction	
Los Angeles Valley College	
(37) 40.26.803-Health Science Building—Construction	

Item

Amount

- Mira Costa Community College District
Mira Costa College
(46) 40.31.109-Horticulture Project—Construction
(46.5) 40.31.110-Creative Arts Building Replacement—Working drawings
Rancho Santiago Community College District
Santa Ana College
(54) 40.41.124-Physical Education Seismic Replacement Expansion—Construction
Santiago Canyon College
(55) 40.41.201-Science Building—Working drawings
San Francisco Community College District
Mission Center
(61) 40.48.106-Mission Center Building—Construction and equipment
San Jose-Evergreen Community College District
San Jose City College
(63) 40.50.203-Science Building—Construction
Santa Barbara Community College District
Santa Barbara City College
(68) 40.53.121-Physical Science Renovation—Working drawings
Santa Clarita Community College District
College of the Canyons
(69) 40.54.112-Classroom/High Tech Center—Construction and equipment
Shasta-Tehama-Trinity Joint Community College District
Shasta College
(73) 40.57.103-Library Addition—Construction
Ventura County Community College District
Moorpark College
(84) 40.65.109-Child Development Center—Construction
Victor Valley Community College District
Victor Valley College
(85) 40.66.117-Speech/Drama Studio Addition—Working drawings
West Valley-Mission Community College District
West Valley College
(90) 40.69.105-Campus Technology Center—Working drawings

Item	Amount
Mission College	
(91) 40.69.208-Main Building Third Floor Reconstruction—Construction	
Yosemite Community College District	
Modesto Junior College	
(92) 40.70.211-Auditorium Renovation/ Expansion—Working drawings	
Copper Mountain Community College District	
Copper Mountain College	
(97) 40.72.100-Multiuse Sports Complex— Working drawings	
6870-491—Reappropriation, Board of Governors of the California Community Colleges. Notwithstanding any other provision of law, the period to liquidate en- cumbrances of the following citations is extended to June 30, 2005:	
0574—1998 Higher Education Capital Outlay Bond Fund	
(1) Item 6870-301-0574, Budget Act of 2001 (Ch. 106, Stats. 2001), as reappropriated by Item 6870-490, Budget Act of 2002 (Ch. 379, Stats. 2002) and Budget Act of 2003 (Ch. 157, Stats. 2003)	
Long Beach Community College District	
Long Beach City College, PCC	
(25) 40.25.115-Replacement of Technology Buildings—Working drawings	
(26) 40.25.116-Child Development Center— Working drawings	
Victor Valley Community College District	
Victor Valley College	
(72) 40.66.115-Advanced Technology Com- plex—Working drawings	
6870-495—Reversion, California Community Colleges (Proposition 98). The following amounts shall revert to the Proposition 98 Reversion Account:	
(1) \$3,898,000, or whatever greater or lesser amount represents the balance available, from Schedule (10) of Item 6870-101-0001 of Section 2.00 of the Budget Act of 2002 (Ch. 379, Stats. 2002)	
(2) \$186,000, or whatever greater or lesser amount represents the balance available, from Schedule (6) of Item 6870-101-0001 of Section 2.00 of the Budget Act of 2002 (Ch. 379, Stats. 2002)	
(3) \$129,000, or whatever greater or lesser amount represents the balance available, from Schedule	

Item	Amount
(21) of Item 6870-101-0001 of Section 2.00 of the Budget Act of 2002 (Ch. 379, Stats. 2002)	
(4) \$37,000, or whatever or greater or lesser amount represents the balance available, from Schedule (11) of Item 6870-101-0001 of Section 2.00 of the Budget Act of 2002 (Ch. 379, Stats. 2002)	
(5) \$1,023,000, or whatever greater or lesser amount represents the balance available, from Schedule (10) of Item 6870-101-0001 of Section 2.00 of the Budget Act of 2001 (Ch. 106, Stats. 2001)	
(6) \$569,000, or whatever greater or lesser amount represents the balance available, from Schedule (5) of Item 6870-101-0001 of Section 2.00 of the Budget Act of 2001 (Ch. 106, Stats. 2001)	
(7) \$121,000, or whatever greater or lesser amount represents the balance available, from Schedule (21.5) of Item 6870-101-0001 of Section 2.00 of the Budget Act of 2001 (Ch. 106, Stats. 2001)	
(8) \$21,000, or whatever greater or lesser amount represents the balance available, from Schedule (11) of Item 6870-101-0001 of Section 2.00 of the Budget Act of 2001 (Ch. 106, Stats. 2001)	
(9) \$3,000,000, or whatever greater or lesser amount represents the balance available, from Schedule (x) of Item 6870-101-0001 of Section 2.00 of the Budget Act of 2000 (Ch. 52, Stats. 2000)	
(10) \$500,000, or whatever greater or lesser amount represents the balance available, from Schedule (z) of Item 6870-101-0001 of Section 2.00 of the Budget Act of 2000 (Ch. 52, Stats. 2000)	
6870-497—Reversion, Board of Governors of the California Community Colleges. As of June 30, 2004, the balance specified below of the appropriation provided in the following citation shall revert to the balance of the fund from which the appropriation was made:	
6028—2002 Higher Education Capital Outlay Bond Fund	
(1) Item 6870-301-6028, Budget Act of 2002 (Ch. 379, Stats. 2002)	
San Mateo Community College District College of San Mateo	
(45) 40.52.206-Seismic Retrofit— Student Services Building #6— Construction	3,745,000

Item	Amount
7980-001-0784—For support of Student Aid Commission, payable from the Student Loan Operating Fund	12,640,000
Schedule:	
(1) 15-Financial Aid Grants Program...	10,963,000
(2) 50-California Loan Program	1,723,000
(3) 80.01-Administration and Support Services	3,302,000
(4) 80.02-Distributed Administration and Support Services	-3,302,000
(5) Reimbursements	-46,000
Provisions:	
1. The funds appropriated in this item shall only be available for the California Student Aid Commission’s state operations activities.	
2. It is the intent of the Legislature that funding from the Student Loan Operating Fund be used in accordance with federal law.	
3. It is the intent of the Legislature that the California Student Aid Commission use up to \$30 million of the unencumbered balance of the Student Loan Operating Fund as a reserve to fulfill its obligations under the Federal Family Education Loan Program.	
4. Pursuant to legislation enacted during the 2003–04 Regular Session of the Legislature, the California Student Aid Commission may develop a carefully crafted business diversification plan that would help it remain competitive. The Student Aid Commission shall be further authorized, pursuant to legislation enacted during the 2003–04 Regular Session, to transfer up to \$70,000,000 of the unencumbered balance of the Student Loan Operating Fund for purposes of business diversification.	
5. If the revenues derived from the federal Voluntary Flexible Agreement, which will be received in February 2005, are significantly lower than the \$68,000,000 expected level, the Department of Finance shall notify the Joint Legislative Budget Committee and, if needed, recommend action to ensure the EdFUND’s viability.	
7980-101-0001—For local assistance, Student Aid Commission.....	636,829,000

Item		Amount
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Schedule:

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| (1) 15-Financial Aid Grants Program... | 808,092,000 |
| (2) Reimbursements | -161,042,000 |
| (3) Amount payable from the Federal Trust Fund (Item 7980-101-0890). | -10,221,000 |

Provisions:

1. Funds appropriated in Schedule (1) are for the purposes of all of the following:
 - (a) Awards in the Cal Grant Program under Chapter 1.7 (commencing with Section 69430) and Article 3 (commencing with Section 69530) of Chapter 2 of Part 42 of the Education Code.
 - (b) Graduate fellowship renewal awards under former Article 9 (commencing with Section 69670) of Chapter 2 of Part 42 of the Education Code.
 - (c) Grants under Section 4709 of the Labor Code.
 - (d) California Student Opportunity and Access Program contract agreements under Article 4 (commencing with Section 69560) of Chapter 2 of Part 42 of the Education Code.
 - (e) The purchase of loan assumptions under Article 5 (commencing with Section 69612) of Chapter 2 of Part 42 of the Education Code. 7,700 warrants shall be issued to California students pursuant to the purchase of loan assumptions.
 - (f) The purchase of loan assumptions under Article 5.5 (commencing with Section 69618) of Chapter 2 of Part 42 of the Education Code.
 - (g) New and renewal Cal Grant awards.
2. If federal trust funds for the 2004–05 fiscal year exceed budgeted levels, the funds appropriated shall, to the extent allowable by federal law, be reduced on a dollar-for-dollar basis.
3. Eligibility for moneys appropriated by this item is limited to students who demonstrate financial need according to the nationally accepted needs analysis methodology, who meet other Student Aid Commission eligibility criteria, and whose income or family’s gross income does not exceed \$78,100 for the purposes of determining recipients for the 2004–05 award year.

Item	Amount
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4. Notwithstanding any other provision of law, the maximum award for:
 - (c) New recipients attending private and independent institutions shall be \$8,322;
 - (d) All recipients receiving Cal Grant B access awards shall be \$1,551;
 - (e) All recipients receiving Cal Grant C tuition and fee awards shall be \$2,592; and
 - (f) All recipients receiving Cal Grant C book and supply awards shall be \$576.
5. Of the funds appropriated in Schedule (1), at least \$8,567,000 in reimbursements from the federal Family Education Loan Program, administered by the Student Aid Commission as the State Student Loan Guarantee Agency, is for the purposes of the California Student Opportunity and Access Program to provide financial aid awareness and related outreach, consistent with Article 4 (commencing with Section 69560) of Chapter 2 of Part 42 of the Education Code and Section 1072b of Title 20 of the United States Code.
6. Notwithstanding any other provision of law, the commission may not issue new warrants for the assumption of loans for the Graduate Assumption Program of Loans for Education pursuant to Section 69618 et seq. of the Education Code.
7. The amount listed in Schedule (2) of this item includes \$146,500,000 in one-time funds received from the Student Loan Operating Fund, for expenditure within the Cal Grant Program.

No state General Fund moneys shall be used for the Cal Grant programs until such time as the \$146,500,000 in reimbursements received from the Student Loan Operating Fund have been fully expended.

It is the intent of the Legislature that funding provided by the Student Loan Operating Fund for the Cal Grant programs be short-term in nature until such time as the state's fiscal situation improves to allow these programs to be funded wholly or in part by the state General Fund.
8. It is the intent of the Legislature that funding from the Student Loan Operating Fund be used in accordance with federal law.

7980-101-0890—For local assistance, Student Aid Commission, for payment to Item 7980-101-0001, payable from the Federal Trust Fund	10,221,000
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Item	Amount
7980-495—Reversion, Student Aid Commission. The unencumbered balance as of June 30, 2004, of the appropriation provided in the following citation shall revert to the fund balance of the fund from which the appropriation was made.	
0001—General Fund	
(1) Item 7980-101-0001, Budget Act of 2003 (Ch. 157, Stats. 2003)	

LABOR AND WORKFORCE DEVELOPMENT AGENCY

7100-001-0001—For support of Employment Development Department, for payment to Item 7100-001-0870.....	18,786,000
7100-001-0184—For support of Employment Development Department, for payment to Item 7100-001-0870, payable from the Employment Development Department Benefit Audit Fund	12,642,000
Provisions:	
1. The amount appropriated in this item includes revenues derived from the assessment of fines and penalties imposed as specified in Section 13332.18 of the Government Code.	
7100-001-0185—For support of Employment Development Department, for payment to Item 7100-001-0870, payable from the Employment Development Contingent Fund.....	54,514,000
Provisions:	
1. Funds appropriated in this item are in lieu of the amounts that otherwise would have been appropriated for administration pursuant to Section 1586 of the Unemployment Insurance Code.	
2. The Department of Finance is authorized to approve expenditures in any amount made necessary by changes in either workload or payments, or any rule or regulation adopted as a result of the enactment of a federal or state law, the adoption of a federal regulation, or following a court decision, during the 2004–05 fiscal year that are within or in excess of amounts appropriated in this act for that year.	
3. The amount appropriated in this item includes revenues derived from the assessment of fines and penalties imposed as specified in Section 13332.18 of the Government Code.	

Item	Amount
4. Notwithstanding any other provision of law and sections of this act, the Director of the Employment Development Department (EDD) may augment this item by up to \$2,500,000 to make interest payments on an Unemployment Fund loan secured to pay Unemployment Insurance (UI) benefits. The EDD will notify the Department of Finance by August 1, 2004, of a planned augmentation by submitting an estimated interest calculation for review. The amount disbursed under this augmentation is limited to actual interest due on an Unemployment Fund loan secured to pay UI benefits. Pursuant to Provision 1 of Item 7100-011-0185, any amount not disbursed for the purpose specified above shall be transferred to the General Fund.	
7100-001-0514—For support of Employment Development Department, for payment to Item 7100-001-0870, payable from the Employment Training Fund	18,353,000
Provisions:	
1. Upon order of the Director of Finance, funds disencumbered from Employment Training Fund training contracts during 2004–05 that have not reverted as of July 1, 2004, may be appropriated in augmentation of this item.	
3. Notwithstanding subparagraph (B) of paragraph (2) of subdivision (a) of Section 10206 of the Unemployment Insurance Code, the Employment Training Panel’s administrative costs may exceed 15 percent of the amount appropriated in this item.	
4. Provision 3 of Item 7100-001-0870 also applies to the amount appropriated in this item.	
7100-001-0588—For support of Employment Development Department, for payment to Item 7100-001-0870, payable from the Unemployment Compensation Disability Fund.....	198,263,000
Provisions:	
1. The Employment Development Department shall submit on October 1, 2004, and April 20, 2005, to the Department of Finance for its review and approval, an estimate of expenditures for both the current and budget years, including the assumptions and calculations underlying Employment Development Department projections for expenditures from this item. The Department of Finance	

Item

Amount

shall approve, or modify, the assumptions underlying all estimates within 15 working days of the due date. If the Department of Finance does not approve or modify in writing, the assumptions underlying all estimates within 15 working days of the due date, the Employment Development Department shall consider the assumptions and calculations approved as submitted. If the Department of Finance determines that the estimate of expenditures differs from the amount appropriated by this item, the Director of Finance shall so report to the Legislature. At the time the report is made, the amount of this appropriation shall be adjusted by the difference between this Budget Act appropriation and the approved estimate of the Department of Finance. Revisions reported pursuant to this provision are not subject to Section 28.00 of this act.

2. The Department of Finance is authorized to approve expenditures in those amounts made necessary by changes in either workload or payments, or any rule or regulation adopted as a result of the enactment of a federal or state law, the adoption of a federal regulation, or the following of a court decision, during the 2004–05 fiscal year that are within or in excess of amounts appropriated in this act for that year.

7100-001-0869—For support of state programs under the Workforce Investment Act (WIA), Employment Development Department, payable from the Consolidated Work Program Fund 154,850,000

Schedule:

- (3) 61.10-WIA Administration..... 1,400,000
- (4) 61.20-WIA Program Support 15,400,000
- (5) 61.30-WIA Local Program Services 8,900,000
- (6) 61.40-WIA Growth Industries..... 1,200,000
- (7) 61.50-WIA Industries with a State-wide Need 16,850,000
- (8) 61.60-WIA Removing Barriers for Special Needs Populations..... 20,500,000
- (9) 61.70-WIA Rapid Response Activities 45,600,000
- (10) 62.10-National Emergency Grant Program..... 45,000,000

Provisions:

1. Provision 1 of Item 7100-001-0588 also applies to this item.

Item	Amount
3. The Secretary of Labor and Workforce Development is authorized to transfer up to \$500,000 of the funds appropriated in this item to the California Workforce Investment Board, Federal Trust Fund, Item 7120-001-0890, to facilitate the implementation and operation of the WIA Program. Any transfer made pursuant to this provision shall be reported in writing to the Department of Finance, the chairpersons of the fiscal committees of each house of the Legislature, and the Chairperson of the Joint Legislative Budget Committee within 30 days of the date of the transfer.	
4. Notwithstanding any other provision of law, the Secretary of Labor and Workforce Development is authorized to transfer funds between categories (Schedules (3) to (8), inclusive) as included in the schedule to be used for projects. Any transfer made pursuant to this provision shall be reported in writing to the Department of Finance, the chairpersons of the fiscal committees of each house, and the Chairperson of the Joint Legislative Budget Committee within 30 days of the date of the transfer.	
5. Up to \$310,000 of the funds appropriated in Schedule (8) shall be used to provide fire and fuel reduction training for California Conservation Corps members participating in the fuels management partnership.	
7100-001-0870—For support of Employment Development Department, payable from the Unemployment Administration Fund-Federal.....	585,484,000
Schedule:	
(1) 10-Employment and Employment Related Services	207,981,000
(2) 21-Tax Collections and Benefit Payments	623,905,000
(3) 22-California Unemployment Insur- ance Appeals Board	69,261,000
(4) 30.01-General Administration	46,767,000
(5) 30.02-Distributed General Adminis- tration.....	-46,515,000
(6) 50-Employment Training Panel.....	13,602,000
(7) Reimbursements.....	-26,045,000
(8) Reimbursements—Program 50, Employment Training Panel	0
(9) Amount payable from the General Fund (Item 7100-001-0001).....	-18,786,000

Item	Amount
(10) Amount payable from the Employment Development Department Benefit Audit Fund (Item 7100-001-0184).....	-12,642,000
(11) Amount payable from the Employment Development Contingent Fund (Item 7100-001-0185).....	-54,514,000
(12) Amount payable from the Employment Training Fund (Item 7100-001-0514).....	-18,353,000
(13) Amount payable from the Unemployment Compensation Disability Fund (Item 7100-001-0588)....	-198,263,000
(14) Amount payable from the School Employees Fund (Item 7100-001-0908).....	-914,000
Provisions:	
1. Funds appropriated in this item are in lieu of the amounts that otherwise would have been appropriated pursuant to Section 1555 of the Unemployment Insurance Code.	
2. Provision 1 of Item 7100-001-0588 also applies to funds appropriated in this item for the Unemployment Insurance Program.	
3.5 Upon certification that funds are available for allocation to this program, the Director of Finance shall increase the amount scheduled in this item for Program 50, Employment Training Panel, by an amount of up to \$40,000,000.	
7100-001-0908—For support of Employment Development Department, for payment to Item 7100-001-0870, payable from the School Employees Fund	914,000
Provisions:	
1. The Department of Finance is authorized to approve expenditures in those amounts made necessary by changes in either workload or payments, or any rule or regulation adopted as a result of the enactment of a federal or state law, the adoption of a federal regulation, or the following of a court decision, during the 2004–05 fiscal year that are within or in excess of amounts appropriated in this act for that year.	
2. Funds appropriated in this item are in lieu of the amounts that otherwise would have been appropriated for administration pursuant to Section 822 of the Unemployment Insurance Code.	

Item	Amount
3. Provision 1 of Item 7100-001-0588 also applies to this item.	
7100-011-0184—For transfer by the Controller, upon order of the Director of Finance, from the Employment Development Department Benefit Audit Fund, to the General Fund.....	(55,000)
Provisions:	
1. The unencumbered balance in the Employment Development Department Benefit Audit Fund as of June 30, 2005, shall be transferred to the General Fund.	
7100-011-0185—For transfer by the Controller, upon order of the Director of Finance, from the Employment Development Contingent Fund, to the General Fund	(21,430,000)
Provisions:	
1. Notwithstanding any other provision of law, the State Controller shall transfer to the General Fund the unencumbered balance, as determined by the Director of Finance, in the Employment Development Contingent Fund as of June 30, 2005.	
7100-011-0890—For support of Employment Development Department, payable from the Federal Trust Fund, for transfer to the Unemployment Administration Fund—Federal	(585,484,000)
7100-021-0890—For support of Employment Development Department, payable from the Federal Trust Fund, for transfer to the Consolidated Work Program Fund.....	(154,850,000)
7100-101-0588—For local assistance, Employment Development Department, for Program 21—Tax collections and benefit payments, payable from the Unemployment Compensation Disability Fund	4,045,433,000
Provisions:	
1. The Department of Finance is authorized to approve expenditures in those amounts made necessary by changes in either workload or payments, or any rule or regulation adopted as a result of the enactment of a federal or state law, the adoption of a federal regulation, or the following of a court decision, during the 2004–05 fiscal year that are within or in excess of amounts appropriated in this act for that year.	
2. Funds appropriated in this item are in lieu of the amounts that otherwise would have been appropriated pursuant to Section 3012 of the Unemployment Insurance Code.	

Item	Amount
3. Provision 1 of Item 7100-001-0588 also applies to this item.	
7100-101-0869—For local assistance under Workforce Investment Act (WIA), Employment Development Department, Program 61-WIA Program, payable from the Consolidated Work Program Fund.....	342,399,000
Provisions:	
1. Provision 1 of Item 7100-001-0588 also applies to this item.	
7100-101-0871—For local assistance, Employment Development Department, for Program 21—Tax collections and benefit payments, payable from the Unemployment Administration Fund—Federal	6,196,700,000
Provisions:	
1. Funds appropriated in this item are in lieu of the amounts that would have otherwise been appropriated pursuant to Section 1521 of the Unemployment Insurance Code.	
2. Provision 1 of Item 7100-001-0588 also applies to this item.	
7100-101-0890—For local assistance, Employment Development Department, payable from the Federal Trust Fund, for transfer to the Consolidated Work Program Fund.....	(342,399,000)
7100-101-0908—For local assistance, Employment Development Department, for Program 21—Tax collections and benefit payments, payable from the School Employees Fund	147,493,000
Provisions:	
1. The Department of Finance is authorized to approve expenditures in those amounts made necessary by changes in either workload or payments, or any rule or regulation adopted as a result of the enactment of a federal or state law, the adoption of a federal regulation, or the following of a court decision, during the 2004–05 fiscal year that are within or in excess of amounts appropriated in this act for that year.	
2. Funds appropriated in this item are in lieu of the amounts that otherwise would have been appropriated for benefits pursuant to Section 822 of the Unemployment Insurance Code.	
3. Provision 1 of Item 7100-001-0588 also applies to this item.	

Item	Amount
7100-111-0890—For local assistance, Employment Development Department, payable from the Federal Trust Fund, for transfer to the Unemployment Administration Fund—Federal	(6,196,700,000)
7100-311-0690—For capital outlay, Employment Development Department. To prevent the loss of funds in the Employment Development Department Building Funds, the unencumbered balances of the funds deposited in the Employment Development Department Building Fund shall be transferred to the Federal Unemployment Administration Fund. Provisions: 1. The Employment Development Department shall report to the Legislature by September 1, 2005, the amount of funds transferred pursuant to this item.	
7120-001-0890—For support of the California Workforce Investment Board, payable from the Federal Trust Fund.....	4,564,000
Schedule:	
(1) 10-California Workforce Investment Program	5,429,000
(2) Reimbursements	-865,000
Provisions: 1. The secretary of the agency that is responsible for oversight of the Employment Development Department, with the approvals of the California Workforce Investment Board and Department of Finance, and not sooner than 30 days after notification to the Joint Legislative Budget Committee, is authorized to transfer funds appropriated in this item to the Employment Development Department, Consolidated Work Program Fund, Item 7100-001-0869, to facilitate the implementation and operation of the Workforce Investment Act Program.	
7300-001-0001—For support of Agricultural Labor Relations Board	4,841,000
Schedule:	
(1) 10-Board Administration	2,105,000
(2) 20-General Counsel Administration.....	2,736,000
(3) 30.01-Administrative Services	239,000
(4) 30.02-Distributed Administrative Services	-239,000
7350-001-0001—For support of Department of Industrial Relations	60,443,000

Item	Amount
Schedule:	
(1) 10-Regulation of Workers' Compensation Self-Insurance Plans	2,901,000
(2) 20-Conciliation of Employer-Employee Disputes	2,086,000
(3) 30-Workers' Compensation Administration	127,806,000
(4) 36-Commission on Health and Safety and Workers' Compensation.....	2,727,000
(5) 40-Prevention of Industrial Injuries and Deaths of California Workers.	79,216,000
(6) 50-Enforcement and Promulgation of Laws Relating to Wages, Hours, and Conditions of Employment, and Licensing and Adjudication....	41,523,000
(7) 60-Promotion, Development, and Administration of Apprenticeship and Other On-the-Job Training	8,149,000
(8) 70-Labor Force Research and Data Dissemination	3,766,000
(9) 80-Payment of Claims, Wages, and Contingencies	892,000
(10) 94.01-Administration	23,151,000
(11) 94.02-Distributed Administration..	-23,151,000
(12) Reimbursements	-3,632,000
(13) Amount payable from the Farmworkers Remedial Account (Item 7350-001-0023)	-102,000
(14) Amount payable from the Cal-OSHA Targeted Inspection and Consultation Fund (Item 7350-001-0096)	-13,081,000
(15) Amount payable from the Workers' Compensation Managed Care Fund (Item 7350-001-0132).....	-551,000
(16) Amount payable from the Industrial Relations Construction Industry Enforcement Fund (Item 7350-001-0216)	-55,000
(17) Amount payable from the Workers' Compensation Administration Revolving Fund (Item 7350-001-0223)	-127,345,000
(18) Amount payable from the Asbestos Consultant Certification Account (Item 7350-001-0368).....	-318,000

Item	Amount
(19) Amount payable from the Asbestos Training Approval Account (Item 7350-001-0369)	-231,000
(20) Amount payable from the Self-Insurance Plans Fund (Item 7350-001-0396)	-2,857,000
(21) Amount payable from the Elevator Safety Inspection Account (Item 7350-001-0452)	-12,116,000
(22) Amount payable from the Pressure Vessel Inspection Account (Item 7350-001-0453)	-3,739,000
(23) Amount payable from the Garment Manufacturers Special Account (Item 7350-001-0481)	-200,000
(24) Amount payable from the Employment Training Fund (Item 7350-001-0514)	-2,957,000
(25) Amount payable from the Federal Trust Fund (Item 7350-001-0890).....	-29,465,000
(26) Amount payable from the Industrial Relations Unpaid Wage Fund (Item 7350-001-0913)	-1,050,000
(27) Amount payable from the Industrial Relations Unpaid Wage Fund (Sec. 96.6, Labor Code)	-500,000
(28) Amount payable from the Electrician Certification Fund (Item 7350-001-3002)	-1,913,000
(29) Amount payable from the Permanent Amusement Ride Safety Inspection Fund (Item 7350-001-3003).....	-1,762,000
(30) Amount payable from the Garment Industry Regulations Fund (Item 7350-001-3004)	-2,251,000
(31) Amount payable from the Apprenticeship Training Contribution Fund (Item 7350-001-3022).....	-3,179,000
(32) Amount payable from the Workers' Occupational Safety and Health Education Fund (Item 7350-001-3030)	-1,079,000
(33) Amount payable from the Car Wash Worker Restitution Fund (Item 7350-001-3071)	-80,000

Item	Amount
(34) Amount payable from the Car Wash Worker Fund (Item 7350-001-3072)	-160,000
7350-001-0023—For support of Department of Industrial Relations, for payment to Item 7350-001-0001, payable from the Farmworkers Remedial Account	102,000
7350-001-0096—For support of Department of Industrial Relations, for payment to Item 7350-001-0001, payable from the Cal-OSHA Targeted Inspection and Consultation Fund	13,081,000
Provisions:	
1. The amount appropriated in this item includes revenues derived from the assessment of fines and penalties imposed as specified in Section 13332.18 of the Government Code.	
7350-001-0132—For support of Department of Industrial Relations, for payment to Item 7350-001-0001, payable from the Workers' Compensation Managed Care Fund	551,000
7350-001-0216—For support of Department of Industrial Relations, for payment to Item 7350-001-0001, payable from the Industrial Relations Construction Industry Enforcement Fund.....	55,000
7350-001-0223—For support of Department of Industrial Relations, for payment to Item 7350-001-0001, payable from the Workers' Compensation Administration Revolving Fund.....	127,345,000
Provisions:	
1. The Director of Finance may authorize a loan from the General Fund to the Workers' Compensation Administration Revolving Fund, in an amount not to exceed 60 percent of the amount appropriated in this item, provided that:	
(a) The loan is to meet cash needs resulting from the delay in receipt of employer assessments to support the Workers' Compensation Administration Revolving Fund, the Subsequent Injuries Benefits Trust Fund, and the Uninsured Employers Benefits Trust Fund.	
(b) The loan is short term and shall be repaid in two equal installments due on March 31 and June 30 of the fiscal year in which the loan is authorized.	
(c) Interest charges may be waived pursuant to subdivision (e) of Section 16314 of the Government Code.	

Item

Amount

- (d) The Director of Finance may not approve the loan unless the approval is made in writing and filed with the Chairperson of the Joint Legislative Budget Committee and the chairperson of the committee in each house that considers appropriations not later than 30 days prior to the effective date of the approval, or not sooner than whatever lesser time the chairperson of the joint committee or his or her designee may determine.
- 2. Notwithstanding any other provision of law, the funds appropriated in this item may be used to pay workers' compensation benefits for the Subsequent Injuries Program and the Uninsured Employers Program, if either or both of those funds' reserves are insufficient to make the payments. Any expenditures made pursuant to this provision shall be credited to the Workers' Compensation Administration Revolving Fund upon receipt of sufficient revenues.
- 3. The Director of Finance may augment this item by up to 10% of the amount appropriated in this item upon approval of an expenditure plan for the implementation of SB 899 (Ch. 34, Stats. 2004). The Department of Industrial Relations shall submit this plan to the Department of Finance no later than August 1, 2004. Any augmentation shall be authorized no sooner than 30 days after notification in writing to the chairpersons of the committees in each house of the Legislature that considers appropriations, the chairpersons of the committee and appropriate subcommittees that consider the State Budget, and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the Chairperson of the Joint Legislative Budget Committee or his or her designee may determine.
- 4. Funds appropriated in this item for the development of a workers' compensation case management system shall not be available for expenditure until a Feasibility Study Report is approved by the Department of Finance.

7350-001-0368—For support of Department of Industrial Relations, for payment to Item 7350-001-0001, payable from the Asbestos Consultant Certification Account.....

318,000

Item	Amount
7350-001-0369—For support of Department of Industrial Relations, for payment to Item 7350-001-0001, payable from the Asbestos Training Approval Account.	231,000
7350-001-0396—For support of Department of Industrial Relations, for payment to Item 7350-001-0001, payable from the Self-Insurance Plans Fund	2,857,000
7350-001-0452—For support of Department of Industrial Relations, for payment to Item 7350-001-0001, payable from the Elevator Inspection Account	12,116,000
7350-001-0453—For support of Department of Industrial Relations, for payment to Item 7350-001-0001, payable from the Pressure Vessel Account	3,739,000
Provisions:	
1. The amount appropriated in this item includes revenues derived from the assessment of fines and penalties imposed as specified in Government Code Section 13332.18.	
7350-001-0481—For support of Department of Industrial Relations, for payment to Item 7350-001-0001, payable from the Garment Manufacturers Special Account.....	200,000
7350-001-0514—For support of Department of Industrial Relations, for payment to Item 7350-001-0001, payable from the Employment Training Fund	2,957,000
Provisions:	
1. Notwithstanding Section 1611 of, and Chapter 3.5 (commencing with Section 10200) of Part 1 of Division 3 of, the Unemployment Insurance Code, \$2,957,000 from the Employment Training Fund shall be transferred by the State Controller to the Department of Industrial Relations for the support of the Division of Apprenticeship Standards.	
7350-001-0890—For support of Department of Industrial Relations, for payment to Item 7350-001-0001, payable from the Federal Trust Fund.....	29,465,000
7350-001-0913—For support of Department of Industrial Relations, for payment to Item 7350-001-0001, payable from the Industrial Relations Unpaid Wage Fund	1,050,000
Provisions:	
1. Notwithstanding any other provision of law, funds appropriated by this item shall be expended by the Department of Industrial Relations Division of Labor Standards Enforcement to administer the Targeted Industries Partnership Program to increase enforcement and compliance in the agricultural, garment, and restaurant industries.	

Item	Amount
2. It is the intent of the Legislature that the Targeted Industries Partnership Program result in increased enforcement of, and compliance by, the agricultural, garment, and restaurant industries regarding wages, hours, conditions of employment, licensing, registration, child labor laws and regulations.	
7350-001-3002—For support of Department of Industrial Relations, for payment to Item 7350-001-0001, payable from the Electrician Certification Fund	1,913,000
7350-001-3003—For support of Department of Industrial Relations, for payment to Item 7350-001-0001, payable from the Permanent Amusement Ride Safety Inspection Fund	1,762,000
7350-001-3004—For support of Department of Industrial Relations, for payment to Item 7350-001-0001, payable from the Garment Industry Regulations Fund..	2,251,000
7350-001-3022—For support of Department of Industrial Relations, for payment to Item 7350-001-0001, payable from the Apprenticeship Training Contribution Fund	3,179,000
7350-001-3030—For support of Department of Industrial Relations, for payment to Item 7350-001-0001, payable from the Worker’s Occupational Safety and Health Education Fund	1,079,000
7350-001-3071—For support of Department of Industrial Relations, for payment to Item 7350-001-0001, payable from the Car Wash Worker Restitution Fund...	80,000
7350-001-3072—For support of Department of Industrial Relations, for payment to Item 7350-001-0001, payable from the Car Wash Worker Fund	160,000
7350-295-0001—For local assistance, Department of Industrial Relations, for reimbursement, in accordance with the provisions of Section 6 of Article XIII B of the California Constitution or Section 17561 of the Government Code, of the costs of any new program or increased level of service of an existing program mandated by statute or executive order, for disbursement by the State Controller	2,000
Schedule:	
(1) 98.01.117.189-Peace Officer’s Cancer Presumption (Ch. 1171, Stats. 1989).....	1,000
(2) 98.01.156.882-Firefighter’s Cancer Presumption (Ch. 1568, Stats. 1982).....	1,000

Item	Amount
(3) 98.01.999.001-Personal alarm devices (8 Cal. Code Regs. Sec. 3401(c)).....	0
(4) 98.01.999.002-Structural and wildland firefighter safety clothing and equipment (8 Cal. Code Regs. Secs. 3401 to 3410, incl.).....	0

Provisions:

1. Except as provided in Provision 2 of this item, allocations of funds appropriated in this item to the appropriate local entities shall be made by the State Controller in accordance with the provisions of each statute or executive order that mandates the reimbursement of the costs, and shall be audited to verify the actual amount of the mandated costs in accordance with subdivision (d) of Section 17561 of the Government Code. Audit adjustments to prior year claims may be paid from this item. Funds appropriated in this item may be used to provide reimbursement pursuant to Article 5 (commencing with Section 17615) of Chapter 4 of Part 7 of Division 4 of Title 2 of the Government Code.
2. If any of the scheduled amounts are insufficient to provide full reimbursement of costs, the State Controller may, upon notification of the Director of Finance in writing, augment those deficient amounts from the unencumbered balance of any other scheduled amounts therein. No order may be issued pursuant to this provision unless written notification of the necessity therefor is provided to the chairperson of the committee in each house that considers appropriations and the Chairperson of the Joint Legislative Budget Committee or his or her designee.
3. Pursuant to Section 17581 of the Government Code, mandates identified in the appropriation schedule of this item with an appropriation of \$0 and included in the language of this provision are specifically identified by the Legislature for suspension during the 2004–05 fiscal year:
 - (3) Personal alarm devices (8 Cal. Code Regs. Sec. 3401(c)).
 - (4) Structural and wildland firefighter safety clothing and equipment (8 Cal. Code Regs. Secs. 3401 to 3410, incl.).

Item	Amount
7350-490—Reappropriation, Department of Industrial Relations. Notwithstanding any other provision of law, the period to liquidate encumbrances of the following citations is extended to June 30, 2005:	
0001—General Fund	
(1) Item 7350-001-0001, Budget Act of 2003 (Ch. 157, Stats. 2003), \$960,000 for the DLSE Case Management System.	
0223—Workers’ Compensation Administration Revolving Fund	
(1) Item 7350-001-0223, Budget Act of 2003 (Ch. 157, Stats. 2003), \$650,000 for implementation of workers’ compensation reforms.	

GENERAL GOVERNMENT

8120-001-0268—For support of Commission on Peace Officer Standards and Training, payable from the Peace Officers’ Training Fund.....	12,430,000
Schedule:	
(1) 10-Standards	6,663,000
(2) 20-Training	21,575,000
(2.5) 30-Peace officer training.....	118,000
(3) 40.01-Administration.....	5,021,000
(4) 40.02-Distributed Administration ...	-5,021,000
(5) Reimbursements	-1,259,000
(6) Amount payable from the Peace Officers’ Training Fund (Item 8120-011-0268)	-13,111,000
(7) Amount payable from the Peace Officers’ Training Fund (Item 8120-012-0268)	-1,556,000
8120-011-0268—For support of Commission on Peace Officer Standards and Training, for payment to Item 8120-001-0268, payable from the Peace Officers’ Training Fund.....	13,111,000
Provisions:	
1. Funds appropriated in this item are to be used for contractual services in support of local training programs, pursuant to Section 13503(c) of the Penal Code.	
2. Funds may be transferred between this item and Item 8120-101-0268 to meet the needs of local training programs.	

Item	Amount
8120-012-0268—For support of Commission on Peace Officer Standards and Training, for payment to Item 8120-001-0268, payable from the Peace Officers’ Training Fund.....	1,556,000
Provisions:	
1. The funds appropriated in this item are to be used for implementation of the “Tools for Tolerance” training program for law enforcement personnel operated by the Simon Wiesenthal Center-Museum of Tolerance. Eligibility to receive funds appropriated by this item as reimbursements is limited to law enforcement agencies authorized by law to receive training reimbursements from the Peace Officers’ Training Fund. Both sworn officers and nonsworn personnel who have contact with the public shall, at the discretion of the head of the law enforcement agency seeking reimbursement under this provision, be eligible for reimbursement, provided that the Museum of Tolerance gives priority to training sworn officers.	
8120-101-0268—For local assistance, Commission on Peace Officer Standards and Training, Program 30, for allocation to cities, counties, and cities and counties pursuant to Section 13523 of the Penal Code, payable from the Peace Officers’ Training Fund	25,382,000
Provisions:	
1. Funds may be transferred between this item and Item 8120-011-0268 to meet the needs of local training programs.	
2. The Director of Finance may authorize the augmentation of the total amount available for expenditure under this item in the amount of revenue received by the Peace Officers’ Training Fund that is in addition to the revenue appropriated by this item, not sooner than 30 days after written notification to the chairpersons of the respective fiscal committees and the Chairperson of the Joint Legislative Budget Committee or his or her designee.	
8120-102-0268—For local assistance, Commission on Peace Officer Standards and Training, Program 30, payable from the Peace Officers’ Training Fund	444,000
Provisions:	
1. Funds appropriated in this item are to be used for implementation of the “Tools for Tolerance” training program for law enforcement personnel operated by the Simon Wiesenthal Center-Museum of Tolerance. Eligibility to receive funds	

Item	Amount
appropriated by this item as reimbursements is limited to law enforcement agencies authorized by law to receive training reimbursements from the Peace Officers' Training Fund. Both sworn officers and nonsworn personnel who have contact with the public shall, at the discretion of the head of the law enforcement agency seeking reimbursement under this provision, be eligible for reimbursement, provided that the Museum of Tol- erance gives priority to training sworn officers.	
8120-295-0001—For local assistance, the Commission on Peace Officer Standards and Training, for reimbursement, in accordance with the provisions of Section 6 of Article XIII B of the California Constitution or Section 17561 of the Government Code, of the costs of any new program or increased level of service of an existing program mandated by statute or executive order, for disbursement by the State Controller	1,000
Schedule:	
(1) 98.01.024.695—Domestic Violence Arrest Policies and Standards (Ch. 246, Stats. 1995)	1,000
(2) 98.01.012.693—Law Enforcement Sexual Harassment Training (Ch. 126, Stats. 1993)	0
(3) 98.01.044.497—Elder Abuse Law Enforcement Training (Ch. 444, Stats. 1997)	0
Provisions:	
1. Except as provided in Provision 2, allocations of funds provided in this item to the appropriate local entities shall be made by the State Controller in accordance with the provisions of each statute or executive order that mandates the reimbursement of the costs, and shall be audited to verify the actual amount of the mandate costs in accordance with subdivision (d) of Section 17561 of the Government Code. Audit adjustments to prior year claims may be paid from this item. Funds appropriated in this item may be used to provide reimbursement pursuant to Article 5 (commencing with Section 17615) of Chapter 4 of Part 7 of Division 4 of Title 2 of the Government Code.	
2. If any of the scheduled amounts are insufficient to provide full reimbursement of costs, the Controller may, upon notifying the Director of Finance in	

Item

Amount

writing, augment those deficient amounts from the unencumbered balance of any other scheduled amounts therein. No order may be issued pursuant to this provision unless written notification of the necessity therefor is provided to the chairperson of the committee in each house which considers appropriations and the Chairperson of the Joint Legislative Budget Committee or his or her designee.

- 3. Pursuant to Section 17581 of the Government Code, mandates identified in the appropriation schedule of this item with an appropriation of \$0 and included in the language of this provision are specifically identified by the Legislature for suspension during the 2004–05 fiscal year:
 - (2) Law Enforcement Sexual Harassment Training (Ch. 126, Stats. 1993)
 - (3) Elder Abuse Law Enforcement Training (Ch. 444, Stats. 1997)

8140-001-0001—For support of State Public Defender.. 11,176,000

Schedule:

(1) 10-State Public Defender..... 11,176,000

Provisions:

- 1. Any federal funds received by the Office of the State Public Defender as reimbursements for legal services provided for capital cases shall revert to the unappropriated surplus of the General Fund.

8180-101-0001—For local assistance, payment to local government for costs of homicide trials, for payment by the State Controller..... 4,746,000

Provisions:

- 1. This item is for payment to counties for costs of homicide trials pursuant to Sections 15201 to 15203, inclusive, of the Government Code, provided that expenditures made under this item shall be charged to the fiscal year in which the warrant is issued by the Controller.
- 2. The Controller shall reimburse counties for reasonable and necessary expenses incurred pursuant to Section 15202 of the Government Code except that reimbursements to a county shall not exceed:
 - (a) for attorney services, an hourly rate equal to that county’s average hourly cost for public defenders, the hourly rate paid to appointed counsel, or the hourly rate charged state agencies by the Attorney General for attorney services, whichever rate is less;
 - (b) for investigators, an hourly rate

Item	Amount
<p>equal to that county's average hourly cost for county-employed investigators or the hourly rate charged state agencies by the Attorney General for investigators, whichever rate is less; and (c) for expert witnesses, the hourly rate that the county generally pays for these services.</p>	
8260-001-0001—For support of California Arts Council	1,075,000
Schedule:	
(1) Arts Council	3,128,000
(2) Reimbursements.....	-197,000
(3) Amount payable from the Graphic Design License Plate Account (Item 8260-001-0078)	-893,000
(4) Amount payable from the Federal Trust Fund (Item 8260-001-0890).	-963,000
8260-001-0078—For support of California Arts Council, for payment to Item 8260-001-0001, payable from the Graphic Design License Plate Account	893,000
8260-001-0890—For support of California Arts Council, for payment to Item 8260-001-0001, payable from the Federal Trust Fund.....	963,000
8260-101-0001—For local assistance, California Arts Council, for grants and subventions	1,000,000
8260-490—Reappropriation, California Arts Council. The balance of the appropriations provided in the following citations is reappropriated for the purposes provided for in those appropriations and shall be available for encumbrance or expenditure until June 30, 2005:	
(1) Item 8260-103-0001, Budget Act of 2000 (Ch. 52, Stats. 2000). Notwithstanding Provision 8(b) of Item 8260-103-0001, Budget Act of 2000 (Ch. 52, Stats. 2000), funds appropriated to the City of San Diego: Sikes Adobe State Point of Historic Interest Restoration are hereby reappropriated for the purpose of allowing the San Dieguito River Park Joint Powers Authority to complete this restoration.	
(2) Item 8260-103-0001, Budget Act of 1999 (Ch. 50, Stats. 1999). Notwithstanding Provision 4(b) of Item 8260-103-0001, Budget Act of 1999 (Ch. 50, Stats. 1999), funds appropriated to the Italian Hall are hereby reappropriated for the purpose of allowing the Italian Hall to complete the capital outlay project.	

Item	Amount
8320-001-0001—For support of Public Employment Relations Board.....	4,893,000
Schedule:	
(1) 11-Public Employment Relations ...	4,905,000
(2) Reimbursements.....	-12,000
8380-001-0001—For support of Department of Personnel Administration	14,563,000
Schedule:	
(1) 10-Policy Operations.....	4,746,000
(2) 20-Labor Relations.....	8,524,000
(3) 25-Legal	5,023,000
(4) 40.01-Administration.....	4,533,000
(5) 40.02-Distributed Administration ...	-4,533,000
(6) 54-Benefits Administration	18,933,000
(7) 56-Training and Development.....	4,331,000
(8) Reimbursements.....	-16,393,000
(9) Amount payable from the Flexelect Benefit Fund (Item 8380-001-0821).....	-1,120,000
(10) Amount payable from the Deferred Compensation Plan Fund (Item 8380-001-0915)	-9,481,000
8380-001-0821—For support of Department of Personnel Administration, for payment to Item 8380-001-0001, payable from the Flexelect Benefit Fund.....	1,120,000
8380-001-0915—For support of Department of Personnel Administration, for payment to Item 8380-001-0001, payable from the Deferred Compensation Plan Fund	9,481,000
8380-004-0001—For support of Department of Personnel Administration	22,582,000
Schedule:	
(1) 54-Benefits Administration	22,582,000
8380-490—Reappropriation, Department of Personnel Administration. Notwithstanding any other provision of law, as of June 30, 2004, the balance of the appropriation provided in the following citation is reappropriated for purposes provided for in that appropriation and shall be available for encumbrance and expenditure until June 30, 2005:	
0367—Indian Gaming Special Distribution Fund	
(1) Item 8380-001-0367, Budget Act of 2000 (Ch. 52, Stats. 2000), as reappropriated by Item 8380-490, Budget Act of 2001 (Ch. 106, Stats. 2001), Item 8380-490, Budget Act of 2002 (Ch. 379, Stats. 2002) and Item 8380-490, Budget Act of 2003 (Ch. 157, Stats. 2003)	

Item	Amount
8380-495—Reversion, Department of Personnel Administration. The unencumbered balance as of January 1, 2005, of the appropriations provided in the following citations shall revert to the fund balance of the General Fund:	
(1) Item 8380-004-0001, Budget Act of 2002 (Ch. 379, Stats. 2002)	
(2) Item 8380-004-0001, Budget Act of 2000 (Ch. 52, Stats. 2000)	
8385-001-0001—For support of California Citizens’ Compensation Commission, Program 10	14,000
8500-001-0152—For support of Board of Chiropractic Examiners, payable from the State Board of Chiropractic Examiners Fund	2,318,000
Schedule:	
(1) 10-Board of Chiropractic Examiners	2,359,000
(2) Reimbursements	-41,000
Provisions:	
1. The amount appropriated in this item may include revenues derived from the assessment of fines and penalties imposed as specified in Government Code Section 13332.18.	
8530-001-0290—For support of Board of Pilot Commissioners for the Bays of San Francisco, San Pablo and Suisun, payable from the Board of Pilot Commissioners’ Special Fund	1,207,000
Schedule:	
(1) 10.01-Support	568,000
(2) 10.02-Training	639,000
Provisions:	
1. The amount appropriated in this item may include revenues derived from the assessment of fines and penalties imposed as specified in Government Code Section 13332.18.	
8550-001-0191—For support of California Horse Racing Board, payable from the Fair and Exposition Fund	8,163,000
Schedule:	
(1) 10-California Horse Racing Board	8,432,000
(2) Amount payable from the Racetrack Security Account, Special Deposit Fund (Item 8550-001-0942)	-269,000
8550-001-0942—For support of California Horse Racing Board, for payment to Item 8550-001-0191, payable from the Racetrack Security Account, Special Deposit Fund	269,000

Item	Amount
8550-011-0942—Notwithstanding paragraph (1) of subdivision (b) of Section 19641 of the Business and Professions Code, there is hereby transferred to the General Fund the unencumbered balance of the Racetrack Security Account, Special Deposit Fund, as of June 30, 2005	(2,000,000)
8570-001-0001—For support of Department of Food and Agriculture	61,080,000
Schedule:	
(1) 11-Agricultural Plant and Animal, Pest and Disease Prevention	82,569,000
(2) 21-Marketing, Commodities, and Agricultural Services	25,963,000
(3) 31-Assistance to Fairs and County Agricultural Activities	3,310,000
(4) 41.01-Executive, Management, and Administrative Services	12,579,000
(5) 41.02-Distributed Executive, Management, and Administrative Services	-11,562,000
(6) Reimbursements	-7,087,000
(7) Amount payable from the Department of Agriculture Account, Department of Agriculture Fund (Item 8570-001-0111)	-13,948,000
(8) Amount payable from the Fair and Exposition Fund (Item 8570-001-0191)	-3,488,000
(9) Amount payable from the Harbors and Watercraft Revolving Fund (Item 8570-001-0516)	-1,175,000
(10) Amount payable from the Agriculture Building Fund (Item 8570-001-0601)	-1,395,000
(11) Amount payable from the Federal Trust Fund (Item 8570-001-0890)	-24,095,000
(12) Amount payable from the Agricultural Pest Control Research Account (Item 8570-011-0112)	-5,000
(13) Amount payable from the Satellite Wagering Account (Item 8570-012-0192)	-586,000
Provisions:	
1. Funds appropriated to Schedule (1) from Item 8570-001-0111 are in lieu of the appropriation provided by subdivision (b) of Section 224 of the	

Item

Amount

- Food and Agricultural Code for emergency detection, eradication, or research of agricultural plant or animal pests or diseases. Any unencumbered balance of these funds shall be available for transfer to local assistance for payment to counties during the 2004–05 fiscal year, as provided in subdivision (c) of Section 224 of the Food and Agricultural Code. In addition, notwithstanding any other provision of law, up to an additional \$800,000 of the funds appropriated pursuant to subdivision (c) of Section 224 of the Food and Agricultural Code shall be available for use by the Department of Food and Agriculture for emergency projects to augment Schedule (1) of this item. The Secretary of Food and Agriculture may expend the funds identified in this provision with the approval of the Director of Finance. The funds that are so appropriated are not subject to Section 26.00, 28.00, or 28.50 of this act.
2. Funds appropriated from Item 8570-001-0111 are in lieu of the appropriation provided by subdivision (a) of Section 224 of the Food and Agricultural Code. In addition, notwithstanding any other provision of law, of the funds appropriated pursuant to subdivision (c) of Section 224 of the Food and Agricultural Code, \$650,000 shall be available for use by the Department of Food and Agriculture for departmental overhead expenses.
 3. Notwithstanding any other provision of law, of the funds appropriated pursuant to subdivision (c) of Section 224 of the Food and Agricultural Code, \$179,000 shall be available for use by the Department of Food and Agriculture for the County/State Liaison Director. The Secretary of Food and Agriculture may augment Schedule (3) of this item with the approval of the Director of Finance. The funds that are so appropriated are not subject to Section 26.00, 28.00, or 28.50 of this act.
 4. New and renewed county work plans for red imported fire ant eradication may include subcontracting relationships with private entities if the county board of supervisors determines by resolution that a subcontracting relationship is both effective and cost-efficient and the secretary finds that approval of the subcontracting relationship will not compromise program goals, such as con-

Item	Amount
<p>sistency, authority, accountability, oversight, efficacy, safety, timeliness, and overall program costs.</p>	
<p>8570-001-0111—For support of Department of Food and Agriculture, for payment to Item 8570-001-0001, payable from the Department of Agriculture Account, Department of Agriculture Fund</p>	13,948,000
<p>Provisions:</p>	
<p>1. The amount appropriated in this item includes revenues derived from the assessment of fines and penalties imposed as specified in Government Code Section 13332.18.</p>	
<p>8570-001-0191—For support of Department of Food and Agriculture, for payment to Item 8570-001-0001, payable from the Fair and Exposition Fund</p>	3,488,000
<p>8570-001-0516—For support of Department of Food and Agriculture, for payment to Item 8570-001-0001, payable from the Harbors and Watercraft Revolving Fund</p>	1,175,000
<p>8570-001-0601—For support of Department of Food and Agriculture, for payment to Item 8570-001-0001, payable from the Agriculture Building Fund.....</p>	1,395,000
<p>Provisions:</p>	
<p>1. Funds appropriated in this item are in lieu of the appropriation made by Section 624 of the Food and Agricultural Code.</p>	
<p>8570-001-0890—For support of Department of Food and Agriculture, for payment to Item 8570-001-0001, payable from the Federal Trust Fund.....</p>	24,095,000
<p>Provisions:</p>	
<p>1. The Department of Finance may authorize the augmentation of this item in an amount not to exceed a cumulative total of \$1,500,000. Any augmentation pursuant to this provision shall be made only if the Department of Food and Agriculture has a valid federal contract or grant. These funds shall not be used for state or federal cooperative fruit fly eradication projects. The augmentations pursuant to this authority are not subject to Section 26.00 or 28.00 of this act.</p>	
<p>8570-002-0001—For support of Department of Food and Agriculture, Program 11, for sterile Medfly release program in the Los Angeles Basin</p>	8,021,000
<p>8570-003-0001—For support of Department of Food and Agriculture, for rental payments on lease-revenue bonds</p>	1,606,000

Item	Amount
Schedule:	
(1) Base Rental and Fees	1,622,000
(2) Insurance	12,000
(3) Reimbursements	-28,000
Provisions:	
1. The Controller shall transfer funds appropriated in this item according to a schedule to be provided by the State Public Works Board. The schedule shall be provided on a monthly basis or as otherwise might be needed to ensure debt requirements are met.	
8570-003-0111—For support of Department of Food and Agriculture, for rental payments on lease-revenue bonds, payable from the Department of Agriculture Account, Department of Agriculture Fund	40,000
Schedule:	
(1) Base Rental.....	40,000
Provisions:	
1. The Controller shall transfer funds appropriated in this item according to a schedule to be provided by the State Public Works Board. The schedule shall be provided on a monthly basis or as otherwise might be needed to ensure debt requirements are met.	
8570-003-0601—For support of Department of Food and Agriculture, for rental payments on lease-revenue bonds, payable from the Agriculture Building Fund	223,000
Schedule:	
(1) Base Rental.....	221,000
(2) Insurance	2,000
Provisions:	
1. The Controller shall transfer funds appropriated in this item according to a schedule to be provided by the State Public Works Board. The schedule shall be provided on a monthly basis or as otherwise might be needed to ensure debt requirements are met.	
8570-004-0001—For transfer by the Controller to the Pierce’s Disease Management Account.....	4,408,000
Provisions:	
1. Of the funds appropriated in this item, \$4,408,000 shall be deposited in the Pierce’s Disease Management Account in the Food and Agricultural Fund and shall be available for expenditure without regard to fiscal year for the purpose of combating Pierce’s disease and its vectors.	

Item	Amount
8570-011-0112—For support of Department of Food and Agriculture, for payment to Item 8570-001-0001, payable from the Agricultural Pest Control Research Account	5,000
Provisions:	
1. The amount appropriated in this item includes revenues derived from the assessment of fines and penalties imposed as specified in Government Code Section 13332.18.	
8570-011-0191—For transfer by the State Controller from the Fair and Exposition Fund to the General Fund, for health benefits for retired employees of district agricultural associations.....	(246,000)
8570-011-0890—For transfer by the Controller from the Federal Trust Fund to the Pierce’s Disease Management Account	10,995,000
Provisions:	
1. The funds appropriated in this item shall be deposited in the Pierce’s Disease Management Account in the Food and Agricultural Fund and shall be available for expenditure for the purpose of combating Pierce’s disease and its vectors.	
8570-012-0192—For support of Department of Food and Agriculture, for payment to Item 8570-001-0001, payable from the Satellite Wagering Account	586,000
8570-101-0001—For local assistance, Department of Food and Agriculture	6,078,000
Schedule:	
(1) 11-Agricultural Plant and Animal, Pest and Disease Prevention	6,078,000
(2) 31-Assistance to Fairs and County Agricultural Activities	1,333,000
(3) Amount payable from the Fair and Exposition Fund (Item 8570-101-0191).....	-950,000
(4) Amount payable from the General Fund (Item 8570-111-0001).....	-383,000
8570-101-0191—For local assistance, Department of Food and Agriculture, for payment to Item 8570-101-0001, payable from the Fair and Exposition Fund	950,000
Provisions:	
1. The funds appropriated in this item are for unemployment insurance at local fairs.	
2. The funds appropriated in this item are for the contributions, or the cost of benefits in lieu of contributions, payable from the Fair and Exposi-	

Item	Amount
tion Fund to the Unemployment Fund by all entities conducting fairs, including county, district, combined county and district, and citrus fruit fairs receiving funds pursuant to Chapter 4 (commencing with Section 19400) of Division 8 of the Business and Professions Code, as a result of unemployment insurance coverage pursuant to Section 605 of the Unemployment Insurance Code.	
8570-111-0001—For local assistance, Department of Food and Agriculture, for payment to Item 8570-101-0001	383,000
Provisions:	
1. The funds appropriated in this item are also available for compensation for services performed for agricultural departments and are to be expended in accordance with the provisions of Sections 2221 to 2224, inclusive, of the Food and Agricultural Code.	
8570-295-0001—For local assistance, Department of Food and Agriculture, for reimbursement, in accordance with the provisions of Section 6 of Article XIII B of the California Constitution or Section 17561 of the Government Code, of the costs of any new program or increased level of service of existing program mandated by statute or executive order, for disbursement by the State Controller	13,900,000
Schedule:	
(1) 98.01.075.298-Animal Adoption (Ch. 752, Stats. 1998)	13,900,000
Provisions:	
1. Except as provided in Provision 2, allocations of funds provided in this item to the appropriate local entities shall be made by the State Controller in accordance with the provisions of each statute or executive order that mandates the reimbursement of the costs, and shall be audited to verify the actual amount of the mandated costs in accordance with subdivision (d) of Section 17561 of the Government Code. Audit adjustments to prior-year claims may be paid from this item. Funds appropriated in this item may be used to provide reimbursement pursuant to Article 5 (commencing with Section 17615) of Chapter 4 of Part 7 of Division 4 of Title 2 of the Government Code.	
2. If any of the scheduled amounts are insufficient to provide full reimbursement of costs, the State Controller may, upon notifying the Director of Fi-	

Item	Amount
<p>nance in writing, augment those deficient amounts from the unencumbered balance of any other scheduled amounts therein. No order may be issued pursuant to this provision unless written notification of the necessity therefor is provided to the chairperson of the committee in each house which considers appropriations and the Chairperson of the Joint Legislative Budget Committee or his or her designee.</p>	
<p>8570-301-0042—For capital outlay, Department of Food and Agriculture, payable from the State Highway Account, State Transportation Fund.....</p>	6,412,000
<p>Schedule:</p>	
<p>(1) 90.80.010-Relocation: Truckee Agriculture Inspection Station—Working drawings and construction.....</p>	6,412,000
<p>8570-301-0111—For capital outlay, Department of Food and Agriculture, payable from the Agriculture Fund</p>	416,000
<p>Schedule:</p>	
<p>(1) 90.19.030-Hawaii Medfly Rearing Facility Repairs—Preliminary plans, working drawings, and construction</p>	416,000
<p>8570-301-0660—For capital outlay, Department of Food and Agriculture, payable from the Public Buildings Construction Fund</p>	12,824,000
<p>Schedule:</p>	
<p>(1) 90.80.010-Relocation: Truckee Agriculture Inspection Station—Working drawings and construction.....</p>	12,824,000
<p>Provisions:</p>	
<p>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 design and construction of the project authorized by this item.</p>	
<p>2. The State Public Works Board and the Department of Food and Agriculture may obtain interim financing for the project costs authorized in this item from any appropriate source, including, but not limited to, Section 15849.1 of the Government Code and the Pooled Money Investment Account</p>	

Item	Amount
<p>pursuant to Sections 16312 and 16313 of the Government Code.</p> <ol style="list-style-type: none"> 3. The State Public Works Board may authorize the augmentation of the cost of construction of the projects scheduled in this item pursuant to the board's authority under Section 13332.11 of the Government Code. In addition, the State Public Works Board may authorize any additional amount necessary to establish a reasonable construction reserve and to pay the costs of financing, including the payment of interest during construction of the project, the costs of financing a debt service fund, and the costs of issuance of permanent financing for the project. This additional amount may include interest payable on any interim financing obtained. 4. This department 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. 5. 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 section does not exempt this department from the requirements of the California Environmental Quality Act. This section is declarative of existing law. <p>8570-401—For support of Department of Food and Agriculture: Notwithstanding any other provision of law, \$2,900,000 of the funds appropriated pursuant to subdivision (c) of Section 224 of the Food and Agricultural Code shall be allocated to counties in a manner prescribed by the secretary for pest detection/trapping programs. These funds are intended to supplement funds available for pest detection/trapping in Item 8570-101-0001. As a condition of receiving these funds, counties shall not reduce their level of support from any other funds for pest detection/trapping programs. If a county declines to participate in a pest detection/trapping pro-</p>	

Item	Amount
<p>gram, or fails to conduct the program to the state's satisfaction, the secretary shall reduce, by the amount that would otherwise be allocated to the county, funds available pursuant to subdivision (c) of Section 224 and other state allocations from Item 8570-101-0001. These funds are hereby appropriated to the Department of Food and Agriculture Item 8570-001-0001 and Item 8570-001-0111 for purposes of operating the pest detection/trapping programs in the counties.</p> <p>8570-402—For local assistance, Department of Food and Agriculture: The remaining funds available pursuant to subdivision (c) of Section 224 of the Food and Agricultural Code, after allocation in accordance with Item 8570-401 and Provisions 1 and 2 of Item 8570-001-0001, shall be apportioned to the counties as follows: in relation to each county's expenditures to the total amount expended by all counties for the preceding fiscal year for agricultural programs that are supervised by the department and for pesticide use enforcement programs supervised by the Department of Pesticide Regulation. This item shall not be effective if a later enacted statute amends subdivision (c) of Section 224 of the Food and Agricultural Code.</p> <p>8570-403—For Department of Food and Agriculture. Notwithstanding any other provision of law, 30 days prior to the Department of Food and Agriculture's entering into interim financing or long-term financing, including bond agreements, pursuant to Article 9 (commencing with Section 19590) of Chapter 4 of Division 8 of the Business and Professions Code, the department shall submit a report to the Chairperson of the Joint Legislative Budget Committee with copies to the Chairpersons of Senate Budget and Fiscal Review Subcommittee No. 2, Assembly Budget Subcommittee No. 3, the Senate Select Committee on Fairs and Rural Issues, the Subcommittee on Fairs and Expositions of the Assembly Committee on Agriculture, and the Department of Finance. The report shall list: (a) proposed individual satellite wagering expansion projects at fairs, (b) costs for constructing, operating, and maintaining individual satellite wagering projects, (c) net revenue projections for individual satellite wagering projects, and (d) projected effect on net Satellite Wagering Account revenue re-</p>	

Item	Amount
<p>resulting from individual satellite wagering projects and satellite wagering-related projects. Additional notification is not required for financing proposals unless refinancing will result in the expenditure of additional funds, in which case the report shall include the above-requested information relating only to the new debt. Reporting shall be required only for satellite wagering projects that are funded by interim financing or long-term financing, including bond agreements.</p>	
<p>8570-404—Notwithstanding Provision 1 of Item 8570-112-0111, Budget Act of 2002, the \$15,000,000 loan authorized, shall be fully repaid to the Agriculture Fund by October 1, 2005. This loan shall be repaid with interest calculated at the rate earned by the Pooled Money Investment Account at the time of the transfer. The Controller shall, within 15 working days of receipt of written notification from the Department of Finance, transfer from the General Fund to the Agriculture Fund the full amount of the loan or increments thereof as requested by the Department of Finance. The Department of Finance shall, within 30 days of receipt of written notification documenting the need of the loan repayment from the Department of Food and Agriculture, provide written notification to the Controller notifying the State Controller of the amount to be transferred from the General Fund to the Agriculture Fund. The Department of Food and Agriculture may request through the Department of Finance an incremental repayment of the loan prior to October 1, 2005. A fee or assessment may not be increased by the Department of Food and Agriculture as a result of the loan.</p>	
<p>8570-490—Reappropriation, Department of Food and Agriculture. The balance of the appropriations provided in the following citations is reappropriated for the purposes and subject to the limitations, unless otherwise specified, provided for in the appropriations:</p>	
<p>0042—State Highway Account</p>	
<p>(1) Item 8570-301-0042, Budget Act of 2002 (Ch. 379, Stats. 2002), as reappropriated by Item 8570-490, Budget Act of 2003 (Ch. 157, Stats. 2003)</p>	
<p>(2) 90.18.001-Relocation: Yermo Agriculture Inspection Station—Working drawings and construction</p>	

Item	Amount
0660—Public Buildings Construction Fund	
(1) Item 8570-301-0660, Budget Act of 2002 (Ch. 379, Stats. 2002), as reappropriated by Item 8570-490, Budget Act of 2003 (Ch. 157, Stats. 2003)	
(1) 90.18.001-Relocation: Yermo Agriculture Inspection Station—Working drawings and construction	
(2) Item 8570-301-0660, Budget Act of 2003 (Ch. 157, Stats. 2003)	
(1) 90.19.010-Hawaii Medfly Rearing Facility—Working drawings and construction	
8620-001-0001—For support of Fair Political Practices Commission	1,887,000
Schedule:	
(1) 10.10-Local enforcement	693,000
(2) 10.20-Legal, technical assistance and state enforcement	1,194,000
8640-001-0001—For support of Political Reform Act of 1974, the following sums are appropriated to, and in augmentation of, the following agencies and officers for the administration, investigation and regulation of political campaigns, officials, and lobbyists.....	2,420,000
Schedule:	
(1) 10-Secretary of State	790,000
For transfer by the State Controller to Item 0890-001-0001 as follows:	
(1) Personal Services... (565,000)	
(2) Operating expenses and equipment..... (225,000)	
(1.5) 20-Franchise Tax Board.....	1,422,000
For transfer by the State Controller to Item 1730-001-0001 as follows:	
(3) 30-Political Reform Audit.....(1,422,000)	
(2) 30-Department of Justice.....	216,000
For transfer by the State Controller to Item 0820-001-0001 as follows:	
(7) 40-Criminal Law ... (78,000)	
(9) 50-Law Enforcement..... (138,000)	
(3) Reimbursements	-8,000
For transfer by the State Controller to Item 0890-001-0001	

Item	Amount
Provisions:	
1. The Controller shall transfer funds as specified above, including any allocations made by the Department of Finance, on January 1, 2005.	
8660-001-0042—For support of Public Utilities Commission, for payment to Item 8660-001-0462, payable from the State Highway Account, State Transportation Fund.....	2,395,000
8660-001-0046—For support of Public Utilities Commission, for payment to Item 8660-001-0462, payable from the Public Transportation Account, State Transportation Fund.....	2,300,000
8660-001-0412—For support of Public Utilities Commission, for payment to Item 8660-001-0462, payable from the Transportation Rate Fund	1,662,000
8660-001-0461—For support of Public Utilities Commission, for payment to Item 8660-001-0462, payable from the Public Utilities Commission Transportation Reimbursement Account.....	7,139,000
8660-001-0462—For support of Public Utilities Commission, payable from the Public Utilities Commission Utilities Reimbursement Account.....	69,084,000
Schedule:	
(1) 10-Regulation of Utilities	82,570,000
(2) 15-Universal Service Telephone Programs.....	863,373,000
(3) 20-Regulation of Transportation.....	13,496,000
(4) 30.01-Administration.....	17,207,000
(5) 30.02-Distributed Administration ...	-17,207,000
(6) Reimbursements.....	-12,493,000
(7) Amount payable from the State Highway Account, State Transportation Fund (Item 8660-001-0042).	-2,395,000
(8) Amount payable from the Public Transportation Account, State Transportation Fund (Item 8660-001-0046).....	-2,300,000
(9) Amount payable from the Transportation Rate Fund (Item 8660-001-0412).....	-1,662,000
(10) Amount payable from the Public Utilities Commission Transportation Reimbursement Account (Item 8660-001-0461)	-7,139,000

Item	Amount
(11) Amount payable from California High-Cost Fund-A Administrative Committee Fund (Item 8660-001-0464).....	-59,269,000
(12) Amount payable from California High-Cost Fund-B Administrative Committee Fund (Item 8660-001-0470)	-482,384,000
(13) Amount payable from Universal Lifeline Telephone Service Trust Administrative Committee Fund (Item 8660-001-0471).....	-251,619,000
(14) Amount payable from Deaf and Disabled Telecommunications Program Administrative Committee Fund (Item 8660-001-0483).....	-69,165,000
(15) Amount payable from Payphone Service Providers Committee Fund (Item 8660-001-0491)	-936,000
(17) Amount payable from the Federal Trust Fund (Item 8660-001-0890).	-993,000
Provisions:	
1. The Public Utilities Commission shall require any public utility requesting a merger to reimburse the commission for those necessary expenses that the commission incurs in its consideration of the proposed merger.	
8660-001-0464—For support of Public Utilities Commission, for payment to Item 8660-001-0462, payable from the California High-Cost Fund-A Administrative Committee Fund.....	59,269,000
Provisions:	
1. Of the amount appropriated in this item, up to \$276,000 shall be used by the Public Utilities Commission to fund administrative and staffing costs for the California High-Cost Fund-A Administrative Committee Program.	
8660-001-0470—For support of Public Utilities Commission, for payment to Item 8660-001-0462, payable from the California High-Cost Fund-B Administrative Committee Fund.....	482,384,000
Provisions:	
1. Of the amount appropriated in this item, up to \$2,656,000 shall be used by the Public Utilities Commission to fund administrative and staffing costs for the California High-Cost Fund-B Administrative Committee Program.	

Item	Amount
8660-001-0471—For support of Public Utilities Commission, for payment to Item 8660-001-0462, payable from the Universal Lifeline Telephone Service Trust Administrative Committee Fund	251,619,000
Provisions:	
1. Of the amount appropriated in this item, up to \$1,630,000 shall be used by the Public Utilities Commission to fund administrative and staffing costs for the Universal Lifeline Telephone Service Trust Administrative Committee Program.	
8660-001-0483—For support of Public Utilities Commission, for payment to Item 8660-001-0462, payable from the Deaf and Disabled Telecommunications Program Administrative Committee Fund.....	69,165,000
Provisions:	
1. Of the amount appropriated in this item, up to \$68,000 shall be used by the Public Utilities Commission to fund administrative and staffing costs for the Deaf and Disabled Telecommunications Administrative Committee Program.	
8660-001-0491—For support of Public Utilities Commission, for payment to Item 8660-001-0462, payable from the Payphone Service Providers Committee Fund	936,000
Provisions:	
1. Of the amount appropriated in this item, up to \$506,000 shall be used by the Public Utilities Commission to fund administrative and staffing costs for the Payphone Service Providers Committee Program.	
8660-001-0890—For support of Public Utilities Commission, for payment to Item 8660-001-0462, payable from the Federal Trust Fund	993,000
8660-003-0412—For support of Public Utilities Commission for rental payments on lease-revenue bonds, payable from the Transportation Rate Fund	146,000
Schedule:	
(1) Base Rental.....	150,000
(2) Insurance	2,000
(3) Reimbursements.....	-6,000
Provisions:	
1. The Controller shall transfer funds appropriated in this item according to a schedule to be provided by the State Public Works Board. The schedule shall be provided on a monthly basis or as otherwise might be needed to ensure debt requirements are met.	

Item	Amount
8660-003-0461—For support of Public Utilities Commission for rental payments on lease-revenue bonds, payable from the Public Utilities Commission Transportation Reimbursement Account.....	536,000
Schedule:	
(1) Base Rental and Fees	552,000
(2) Insurance	7,000
(3) Reimbursements.....	-23,000
Provisions:	
1. The Controller shall transfer funds appropriated in this item according to a schedule to be provided by the State Public Works Board. The schedule shall be provided on a monthly basis or as otherwise might be needed to ensure debt requirements are met.	
8660-003-0462—For support of Public Utilities Commission for rental payments on lease-revenue bonds, payable from the Public Utilities Commission Utilities Reimbursement Account	4,187,000
Schedule:	
(1) Base Rental and Fees	4,313,000
(2) Insurance	58,000
(3) Reimbursements.....	-184,000
Provisions:	
1. The Controller shall transfer funds appropriated in this item according to a schedule to be provided by the State Public Works Board. The schedule shall be provided on a monthly basis or as otherwise might be needed to ensure debt requirements are met.	
8660-495—Reversion-Public Utilities Commission. Notwithstanding any other provision of law, the sum of \$2,500,000 from the appropriations provided in the following citations shall revert to the General Fund:	
0001—General Fund	
(1) \$2,500,000 from Section 5 of Chapter 7 of the Statutes of 2001, First Extraordinary Session, as amended by Section 57 of Chapter 111 of the Statutes of 2001, consisting of unliquidated encumbered balances.	
8665-001-9326—For support of California Consumer Power and Conservation Financing Authority, payable from the California Consumer Power and Conservation Financing Authority Fund.....	1,224,000
Schedule:	
(1) 15-Energy Acquisition.....	738,000

Item	Amount
(2) 20-Planning and Policy Development.....	486,000
(3) 30.01-Administration.....	343,000
(4) 30.02-Distributed Administration ...	-343,000
8690-001-0217—For support of Seismic Safety Commission, payable from the Insurance Fund.....	882,000
Schedule:	
(1) 10-Seismic Safety Commission.....	957,000
(2) Reimbursements.....	-75,000
8700-001-0001—For support of California Victim Compensation and Government Claims Board.....	0
Schedule:	
(1) 11-Citizens Indemnification.....	62,820,000
(2) 12-Quality Assurance and Revenue Recovery Division.....	8,081,000
(3) 21-Disaster Relief Claim Program.....	19,000
(4) 31-Civil Claims Against the State..	809,000
(5) 41-Citizens Benefiting the Public...	20,000
(6) 51.01-Administration.....	7,482,000
(7) 51.03-Executive Office.....	267,000
(8) 51.02-Distributed Administration Executive Office.....	-7,749,000
(9) Reimbursements.....	-828,000
(10) Amount payable from the Restitution Fund (Item 8700-001-0214)...	-42,792,000
(11) Amount payable from the Federal Trust Fund (Item 8700-001-0890).....	-28,109,000
(12) Amount payable from the Restitution Fund (Item 8700-002-0214)...	-20,000
Provisions:	
1. The California Victim Compensation and Government Claims Board shall not routinely notify all local agencies and school districts regarding its proceedings. However, for each of its meetings, the board shall notify all parties whose claims or proposals are scheduled for consideration and any party requesting notice of the proceedings.	
8700-001-0214—For support of California Victim Compensation and Government Claims Board, for support services pursuant to Chapter 5 (commencing with Section 13959) of Part 4 of Division 3 of Title 2 of the Government Code, for payment to Item 8700-001-0001, payable from the Restitution Fund.....	42,792,000

Item		Amount
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Provisions:

1. It is the intent of the Legislature that local agencies which contract with the California Victim Compensation and Government Claims Board as part of joint powers agreements or criminal restitution compacts are reimbursed for their costs. Notwithstanding any other provision of law, the Department of Finance may authorize expenditure from the Restitution Fund in excess of the amount appropriated not sooner than 30 days after notification in writing of the necessity is provided to the chairperson of the committee in each house of the Legislature that considers appropriations, the chairpersons of the committees and the appropriate subcommittees in each house of the Legislature that consider the State Budget, and the Chairperson of the Joint Legislative Budget Committee.

8700-001-0890—	For support of California Victim Compensation and Government Claims Board, for payment to Item 8700-001-0001, payable from the Federal Trust Fund.....	28,109,000
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8700-002-0214—	For support of California Victim Compensation and Government Claims Board, for support services pursuant to subdivision (e) of Section 13973 of the Government Code, for payment to Item 8700-001-0001, payable from the Restitution Fund.	20,000
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8700-295-0001—	For local assistance, California Victim Compensation and Government Claims Board for reimbursement, in accordance with the provisions of Section 6 of Article XIII B of the California Constitution or Section 17561 of the Government Code, of the costs of any new program or increased level of service of an existing program mandated by statute or executive order, for disbursement by the State Controller.....	0
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Schedule:

- (1) 98.01.112.377-Adult Felony Restitution (Ch. 1123, Stats. 1977)..... 0

Provisions:

1. Pursuant to Section 17581 of the Government Code, mandates identified in the appropriation schedule of this item with an appropriation of \$0 and included in the language of this provision are

Item	Amount
specifically identified by the Legislature for suspension during the 2004–05 fiscal year:	
(1) Adult Felony Restitution (Ch. 1123, Stats. 1977).	
8770-001-0462—For support of Electricity Oversight Board, payable from the Public Utilities Commission Utilities Reimbursement Account	3,163,000
Schedule:	
(1) 30-Administration	3,637,000
(2) Amount payable from the Energy Resources Programs Account (Item 8770-001-0465)	-474,000
8770-001-0465—For support of Electricity Oversight Board, for payment to Item 8770-001-0462, payable from the Energy Resources Programs Account	474,000
8780-001-0001—For support of Milton Marks “Little Hoover” Commission on California State Government Organization and Economy	907,000
Schedule:	
(1) 10-Milton Marks Commission on California State Government Organization and Economy	909,000
(2) Reimbursements	-2,000
8820-001-0001—For support of Commission on the Status of Women	407,000
Schedule:	
(1) 10-Administration, Legislation, Research and Information	409,000
(2) Reimbursements	-2,000
8830-001-0001—For support of California Law Revision Commission	662,000
Schedule:	
(1) 10-Law Revision Commission	677,000
(2) Reimbursements	-15,000
8840-001-0001—For support of the California Commission on Uniform State Laws	98,000
8855-001-0001—For support of Bureau of State Audits, for transfer to the State Audit Fund	12,388,000
Schedule:	
(1) 10-State Auditor	12,388,000
8860-001-0001—For support of Department of Finance	30,170,000
Schedule:	
(1) 10-Annual Financial Plan	18,003,000
(2) 20-Program and Information System Assessments	12,999,000

Item	Amount
(3) 30-Supportive Data	11,859,000
(4) 40.01-Administration.....	5,963,000
(5) 40.02-Distributed Administration ...	-5,488,000
(6) Reimbursements.....	-13,166,000

Provisions:

1. The funds appropriated in this item for CALSTARS shall be transferred by the Controller, upon order of the Department of Finance, or made available by the Department of Finance as a reimbursement, to other items and departments for CALSTARS-related activities by the Department of Finance.
2. The funds appropriated in this act for purposes of CALSTARS-related data-processing costs may be transferred between any items in this act by the Controller upon order of the Director of Finance. Any funds so transferred shall be used only for support of CALSTARS-related data-processing costs incurred.

8885-001-0001—For support of Commission on State Mandates, Program 10	1,189,000
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Provisions:

1. The Commission on State Mandates shall provide, in applicable parameters and guidelines, as follows:
 - (a) If a local agency or school district contracts with an independent contractor for the preparation and submission of reimbursement claims, the costs reimbursable by the state for that purpose shall not exceed the lesser of (1) 10 percent of the amount of the claims prepared and submitted by the independent contractor, or (2) the actual costs that necessarily would have been incurred for that purpose if performed by employees of the local agency or school district.
 - (b) The maximum amount of reimbursement authorized by subdivision (a) may be exceeded only if the local agency or school district establishes, by appropriate documentation, that the preparation and submission of these claims could not have been accomplished without the incurring of the additional costs claimed by the local agency or school district.
2. In the case where the commission receives one or more county applications for a finding of significant financial distress pursuant to Section 17000.6

Item	Amount
of the Welfare and Institutions Code, notwithstanding the provisions of Section 17000.6 of the Welfare and Institutions Code, the time limit imposed on the commission to reach its preliminary and final decisions shall be tolled until such time as the commission has received an appropriation from the Legislature to carry out its duties as prescribed in Section 17000.6 of the Welfare and Institutions Code.	
8885-011-0360—For transfer by the Controller from the State Mandates Claims Fund to the General Fund ..	(461,000)
8910-001-0001—For support of Office of Administrative Law	1,786,000
Schedule:	
(1) 10-Regulatory Oversight.....	1,926,000
(2) Reimbursements.....	-140,000
8940-001-0001—For support of Military Department....	31,438,000
Schedule:	
(1) 10-Army National Guard.....	56,258,000
(2) 20-Air National Guard	18,360,000
(3) 30.01-Office of the Adjutant General.....	8,812,000
(4) 30.02-Distributed Office of the Adjutant General	-8,812,000
(5) 35-Military Support to Civil Authority	5,216,000
(6) 40-Military Retirement	3,190,000
(7) 50-California Cadet Corps	423,000
(8) 55-California State Military Reserve.....	247,000
(9) 65-California National Guard Youth Programs	11,506,000
(10) Reimbursements	-6,246,000
(11) Amount payable from the Armory Discretionary Improvement Account (Item 8940-001-0485).....	-150,000
(12) Amount payable from the Federal Trust Fund (Item 8940-001-0890)	-57,366,000
Provisions:	
1. No expenditures shall be made from the funds appropriated in this item as a substitution for personnel, equipment, facilities, or other assistance, or for any portion thereof, that, in the absence of the expenditure, or of this appropriation, would be available to the Adjutant General of the State	

Item	Amount
Military Forces, the California State Military, or the California State Military Reserve from the federal government.	
2. The funds appropriated in Schedule (6) shall be for military retirements, in accordance with Sections 228 and 256 of the Military and Veterans Code.	
8940-001-0485—For support of Military Department, for payment to Item 8940-001-0001, payable from the Armory Discretionary Improvement Account.....	150,000
Provisions:	
1. No expenditures shall be made from this appropriation until sufficient revenues or income from armories have been deposited into the State Treasury to the credit of the General Fund pursuant to subdivision (c) of Section 431 of the Military and Veterans Code.	
8940-001-0890—For support of Military Department, for payment to Item 8940-001-0001, payable from the Federal Trust Fund	57,366,000
8940-301-0001—For capital outlay, Military Department.....	5,415,000
Schedule:	
(1) 70.80.010-Bakersfield: Union Armory—Construction and equipment.....	5,004,000
(2) 70.85.010-Roseville: Armory Additions and Renovations—Working drawings.....	411,000
8940-301-0890—For capital outlay, Military Department, payable from the Federal Trust Fund	7,449,000
Schedule:	
(1) 70.80.010-Bakersfield: Union Armory—Preliminary plans, working drawings, construction, and equipment.....	6,411,000
(2) 70.10.100-Advance plans and studies—Studies and preliminary plans.....	836,000
(3) 70.85.010-Roseville: Armory Additions and Renovations—Preliminary plans	202,000
8940-490—Reappropriation, Military Department. The balance of the appropriations provided in the following citations is reappropriated for the purposes and	

Item	Amount
subject to the limitations, unless otherwise specified, provided for in the appropriations:	
0001—General Fund	
(1) Item 8940-301-0001, Budget Act of 2003 (Ch. 157, Stats. 2003)	
(2) 70.83.010-Lancaster: Armory—Working drawings, construction, and equipment	
0890—Federal Trust Fund	
(1) Item 8940-301-0890, Budget Act of 2003 (Ch. 157, Stats. 2003)	
(2) 70.83.010-Lancaster: Armory—Working drawings, construction, and equipment	
8955-001-0001—For support of Department of Veterans Affairs.....	5,579,000
Schedule:	
(1) 10-Farm and Home Loans to Veterans	1,418,000
(2) 20-Veterans Claims and Rights	1,748,000
(3) 30-Care of Sick and Disabled Veterans.....	4,345,000
(4) 50.01-General Administration	5,805,000
(5) 50.02-Distributed General Administration.....	-5,805,000
(6) Reimbursements.....	-470,000
(7) Amount payable from the Veterans Service Office Fund (Item 8955-001-0083)	-44,000
(8) Amount payable from the Veterans' Farm and Home Building Fund of 1943 (Item 8955-001-0592).....	-1,418,000
8955-001-0083—For support of Department of Veterans Affairs, for payment to Item 8955-001-0001, payable from the Veterans Service Office Fund	44,000
8955-001-0592—For support of Department of Veterans Affairs, for payment to Item 8955-001-0001, payable from the Veterans' Farm and Home Building Fund of 1943.....	1,418,000
8955-001-0701—For support of Department of Veterans Affairs, payable from the Veterans' Home Fund	173,000
8955-101-0001—For local assistance, Department of Veterans Affairs, for contribution to counties toward compensation and expenses of county veterans services offices, to be expended in accordance with Section 972 and following of the Military and Veterans Code	2,350,000

Item	Amount
Schedule:	
(1) 20-Veterans Claims and Rights	3,188,000
(2) Reimbursements	-838,000
8955-101-0083—For local assistance, Department of Veterans Affairs, county veterans services offices, payable from the Veterans Service Office Fund	470,000
8960-011-0001—For support of Veterans’ Home of California—Yountville	36,211,000
Schedule:	
(1) 30-Care of Sick and Disabled Veterans.....	67,538,000
(2) Reimbursements	-17,872,000
(3) Amount payable from the Federal Trust Fund (Item 8960-011-0890).....	-13,455,000
Provisions:	
1. The Director of Finance may authorize a loan from the General Fund, in an amount not to exceed the level of reimbursements appropriated in Schedule (2) of this item to the Veterans’ Home of California, provided that:	
(a) The loan is to meet cash needs resulting from the delay in receipt of reimbursements for medical services provided.	
(b) The loan is short term, and shall be repaid within six months.	
(c) Interest charges may be waived pursuant to subdivision (e) of Section 16314 of the Government Code.	
(d) The Director of Finance may not approve the loan unless the approval is made in writing and filed with the Chairperson of the Joint Legislative Budget Committee and the chairperson of the committee in each house that considers appropriations not later than 30 days prior to the effective date of the approval, or not sooner than whatever lesser time the chairperson of the joint committee or his or her designee may determine.	
2. At the end of the six-month term of the loan, the department shall notify the Chairperson of the Joint Legislative Budget Committee whether the Veterans’ Home of California has repaid the loan made pursuant to subdivision (d) of Provision 1. If the department notifies the Legislature that the	

Item	Amount
<p>Veterans' Home of California cannot repay the loan within the six-month loan period, it shall identify a payment schedule for full payment of the loan.</p>	
<p>3. Of the funds appropriated in Schedule (1), the amount of \$500,000 is available for special projects that provide a direct benefit to the members of the Veterans' Home of California at Yountville, including the maintenance of facilities used by members and the public. The Allied Council at the Veterans' Home of California may submit special project requests to the administrator for consideration. After consultation with the Allied Council, a budget for expenditure of these funds shall be approved by the administrator, and the Secretary of Veterans Affairs.</p>	
8960-011-0890—For support of Veterans' Home of California—Yountville, for payment to Item 8960-011-0001, payable from the Federal Trust Fund.....	13,455,000
8965-001-0001—For support of the Veterans' Home of California—Barstow	6,780,000
Schedule:	
(1) 30-Care of Sick and Disabled Veterans.....	10,024,000
(2) Reimbursements	-1,406,000
(3) Amount payable from the Federal Trust Fund (Item 8965-001-0890).	-1,838,000
Provisions:	
<p>1. The Director of Finance may authorize a loan from the General Fund, in an amount not to exceed the level of reimbursements appropriated in Schedule (2) of this item to the Veterans' Home of California, provided that:</p>	
<p>(a) The loan is to meet cash needs resulting from the delay in receipt of reimbursements for medical services provided.</p>	
<p>(b) The loan is short term, and shall be repaid within six months.</p>	
<p>(c) Interest charges may be waived pursuant to subdivision (e) of Section 16314 of the Government Code.</p>	
<p>(d) The Director of Finance may not approve the loan unless the approval is made in writing and filed with the Chairperson of the Joint Legislative Budget Committee and the chair-</p>	

Item	Amount
<p>person of the committee in each house that considers appropriations not later than 30 days prior to the effective date of the approval, or not sooner than whatever lesser time the chairperson of the joint committee or his or her designee may determine.</p> <p>2. At the end of the six-month term of the loan, the department shall notify the Chairperson of the Joint Legislative Budget Committee whether the Veterans' Home of California has repaid the loan made pursuant to subdivision (d) of Provision 1. If the department notifies the Legislature that the Veterans' Home of California cannot repay the loan within the six-month loan period, it shall identify a payment schedule for full payment of the loan.</p>	
8965-001-0890—For support of the Veterans' Home of California—Barstow, for payment to Item 8965-001-0001, payable from the Federal Trust Fund	1,838,000
8965-003-0001—For support of the Veterans' Home of California—Barstow for rental payments on lease-revenue bonds	1,244,000
Schedule:	
(1) Base Rental and Fees	1,111,000
(2) Insurance	191,000
(3) Reimbursements	-58,000
Provisions:	
1. The Controller shall transfer funds appropriated in this item according to a schedule to be provided by the State Public Works Board. The schedule shall be provided on a monthly basis or as otherwise might be needed to ensure debt requirements are met.	
8966-001-0001—For support of the Veterans' Home of California—Chula Vista	11,112,000
Schedule:	
(1) 30-Care of Sick and Disabled Veterans.....	21,042,000
(2) Reimbursements.....	-4,831,000
(3) Amount payable from the Federal Trust Fund (Item 8966-001-0890).	-5,099,000
Provisions:	
1. The Director of Finance may authorize a loan from the General Fund, in an amount not to exceed the level of reimbursements appropriated in	

Item	Amount
Schedule (2) of this item to the Veterans' Home of California, provided that:	
(a) The loan is to meet cash needs resulting from the delay in receipt of reimbursements for medical services provided.	
(b) The loan is short term, and shall be repaid within six months.	
(c) Interest charges may be waived pursuant to subdivision (e) of Section 16314 of the Government Code.	
(d) The Director of Finance may not approve the loan unless the approval is made in writing and filed with the Chairperson of the Joint Legislative Budget Committee and the chairperson of the committee in each house that considers appropriations not later than 30 days prior to the effective date of the approval, or not sooner than whatever lesser time the chairperson of the joint committee or his or her designee may determine.	
2. At the end of the six-month term of the loan, the department shall notify the Chairperson of the Joint Legislative Budget Committee whether the Veterans' Home of California has repaid the loan made pursuant to subdivision (d) of Provision 1. If the department notifies the Legislature that the Veterans' Home of California cannot repay the loan within the six-month loan period, it shall identify a payment schedule for full payment of the loan.	
8966-001-0890—For support of the Veterans' Home of California—Chula Vista, for payment to Item 8966-001-0001, payable from the Federal Trust Fund.....	5,099,000
8966-003-0001—For support of the Veterans' Home of California—Chula Vista for rental payments on lease-revenue bonds.....	1,440,000
Schedule:	
(1) Base Rental and Fees	1,379,000
(2) Insurance	61,000
Provisions:	
1. The Controller shall transfer funds appropriated in this item according to a schedule to be provided by the State Public Works Board. The schedule shall be provided on a monthly basis or as otherwise might be needed to ensure debt requirements are met.	

Item	Amount
9100-101-0001—For local assistance, Tax Relief.....	668,241,000

Schedule:

- (1) 10-Senior Citizens’ Property Tax Assistance..... 37,036,000
- (2) 20-Senior Citizens’ Property Tax Deferral Program 11,900,000
- (3) 30-Senior Citizen Renters’ Tax Assistance.....146,355,000
- (4) 50-Homeowners’ Property Tax Relief433,200,000
- (5) 60-Subventions for Open Space..... 39,750,000

Provisions:

1. Schedule (1) is for property tax assistance to homeowner claimants in accordance with the Senior Citizens Property Tax Assistance and Postponement Law, as set forth in Part 10.5 (commencing with Section 20501) of Division 2 of the Revenue and Taxation Code.

Any unexpended balance in Schedule (1) may be used to make payments to senior citizen renter claimants under Schedule (3).

2. Schedule (2) is for property tax postponement and assistance to claimants in accordance with the Senior Citizens Property Tax Assistance and Postponement Law, as set forth in Part 10.5 (commencing with Section 20501) of Division 2 of the Revenue and Taxation Code. The appropriation made by this schedule shall be in lieu of the appropriation for the same purpose contained in Section 16100 of the Government Code.

3. Schedule (3) is for property tax assistance to renter claimants in accordance with the Senior Citizens Property Tax Assistance and Postponement Law, as set forth in Part 10.5 (commencing with Section 20501) of Division 2 of the Revenue and Taxation Code.

Any unexpended balance in Schedule (3) may be used to make payments to senior citizen homeowner claimants under Schedule (1).

4. Schedule (4) is for reimbursement to local taxing authorities for revenue lost by reason of the homeowners’ property tax exemption granted pursuant to subdivision (k) of Section 3 of Article XIII of the California Constitution. The appropriation made by this schedule shall be in lieu of the appropriation required pursuant to Section 25

Item

Amount

of Article XIII of the California Constitution and the appropriation for the same purposes contained in Section 16100 or 16120 of the Government Code.

- 5. Schedule (5) is for providing reimbursement to local taxing authorities for revenue lost by reason of the assessment of open-space lands under Sections 423, 423.3, 423.4, and 423.5 of the Revenue and Taxation Code, and in accordance with Chapter 3 (commencing with Section 16140) of Part 1 of Division 4 of Title 2 of the Government Code. The appropriation made by this schedule shall be in lieu of the appropriation for the same purpose contained in Section 16100 or 16140 of the Government Code.
- 6. Notwithstanding any other provision of law, the Director of Finance may authorize expenditures for Schedules (1), (2), (3), (4), and (5) in excess of or less than the amount appropriated not sooner than 30 days after notification in writing of the necessity therefor is provided to the chairpersons of the fiscal committees and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the chairperson of the committee, or his or her designee, may in each instance determine.

9100-295-0001—For local assistance, Tax Relief, for reimbursement, in accordance with the provisions of Section 6 of Article XIII B of the California Constitution or Section 17561 of the Government Code, of the costs of any new program or increased level of service of an existing program mandated by statute or executive order, for disbursement by the State Controller.....

3,000

Schedule:

- (1) 98.01.124.277-Senior Citizens' Property Tax Deferral Program (Ch. 1242, Stats. 1977) 1,000
- (2) 98.01.092.187-Countywide Tax Rates (Ch. 921, Stats. 1987)..... 1,000
- (3) 98.01.069.792-Allocation of Property Tax Revenue (Ch. 697, Stats. 1992)..... 1,000
- (4) 98.01.105.183-Senior Citizens' Mobilehome Property Tax Deferral (Ch. 1051, Stats. 1983) 0

Item	Amount
(5) 98.01.004.887-Property Tax-Family Transfers (Ch. 48, Stats. 1987)	0

Provisions:

1. Except as provided in Provision 2 of this item, allocations of funds provided in this item to the appropriate local entities shall be made by the State Controller in accordance with the provisions of each statute or executive order that mandates the reimbursement of the costs, and shall be audited to verify the actual amount of the mandated costs in accordance with subdivision (d) of Section 17561 of the Government Code. Audit adjustments to prior year claims may be paid from this item. Funds appropriated in this item may be used to provide reimbursement pursuant to Article 5 (commencing with Section 17615) of Chapter 4 of Part 7 of Division 4 of Title 2 of the Government Code.
2. If any of the scheduled amounts are insufficient to provide full reimbursement of costs, the State Controller may, upon notifying the Director of Finance in writing, augment those deficient amounts from the unencumbered balance of any other scheduled amounts therein. No order may be issued pursuant to this provision unless written notification of the necessity therefor is provided to the chairperson of the committee in each house which considers appropriations and the Chairperson of the Joint Legislative Budget Committee or his or her designee.
3. Pursuant to Section 17581 of the Government Code, the mandates identified in the appropriation schedule of this item with an appropriation of \$0 and included in the language of this provision are specifically identified by the Legislature for suspension during the 2004–05 fiscal year:
 - (4) 98.01.105.183-Senior Citizens’ Mobilehome Property Tax Deferral (Ch. 1051, Stats. 1983)
 - (5) 98.01.004.887-Property Tax-Family Transfers (Ch. 48, Stats. 1987)

9210-101-0001—For local assistance, Local Government Financing	200,000,000
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Provisions:

1. For allocation by the Controller to local jurisdictions for public safety and juvenile justice purposes, as determined by the Director of Finance

Item	Amount
<p>pursuant to Chapter 6.7 (commencing with Section 30061) of Division 3 of Title 3 of the Government Code.</p> <p>2. Notwithstanding any other provision of law, the funds appropriated in this item shall be available for expenditure until June 30, 2006. These funds shall be used to supplement and not supplant existing services.</p>	
<p>9210-102-0001—For local assistance, Local Government Financing</p>	400,000
<p>Provisions:</p> <p>1. The amount appropriated in this item is for allocation by the State Controller to the Santa Barbara County Formation Commission pursuant to Article 3 (commencing with Section 23331) of Chapter 3 of Division 1 of Title 3 of the Government Code.</p> <p>2. The amount appropriated in this item is a loan and shall be repaid with interest within one year from the date upon which the issue of county formation is voted on by the people.</p>	
<p>9210-105-0001—For local assistance, Local Government Financing, Property Tax Administration Grant Program</p>	60,000,000
<p>Provisions:</p> <p>1. For allocation by the Controller to counties, as determined by the Department of Finance, pursuant to Chapter 6 (commencing with Section 95.35) of Division 1 of the Revenue and Taxation Code.</p>	
<p>9210-295-0001—For local assistance, Local Government Financing, for reimbursement, in accordance with the provisions of Section 6 of Article XIII B of the California Constitution or Section 17561 of the Government Code, of the costs of any new program or increased level of service of an existing program mandated by statute or executive order, for disbursement by the State Controller</p>	5,000
<p>Schedule:</p> <p>(1) 98.01.048.675-Mandate Reimbursement Process (Ch. 486, Stats. 1975).....</p>	1,000
<p>(2) 98.01.064.186-Open Meetings Act (Ch. 641, Stats. 1986).....</p>	1,000
<p>(3) 98.01.099.991-Rape Victim Counseling Ctr. Notices (Ch. 999, Stats. 1991).....</p>	1,000

Item	Amount
(4) 98.01.087.585-Photographic Record Evidence (Ch. 875, Stats. 1985).....	1,000
(5) 98.01.112.096-Health Benefits for Survivors/Peace Officers and Firefighters (Ch. 1120, Stats. 1996)....	1,000
(6) 98.01.084.578-Filipino Employee Surveys (Ch. 845, Stats. 1978).....	0
(7) 98.01.088.981-Lis Pendens (Ch. 889, Stats. 1981).....	0
(9) 98.01.128.180-Involuntary Lien Notices (Ch. 1281, Stats. 1980)....	0
(10) 98.01.160.984-Domestic Violence Information (Ch. 1609, Stats. 1984).....	0
(11) 98.01.133.487-CPR Pocket Masks (Ch. 1334, Stats. 1987)	0

Provisions:

1. Except as provided in Provision 2 of this item, allocations of funds provided in this item to the appropriate local entities shall be made by the State Controller in accordance with the provisions of each statute or executive order that mandates the reimbursement of the costs, and shall be audited to verify the actual amount of the mandated costs in accordance with subdivision (d) of Section 17561 of the Government Code. Audit adjustments to prior year claims may be paid from this item. Funds appropriated in this item may be used to provide reimbursement pursuant to Article 5 (commencing with Section 17615) of Chapter 4 of Part 7 of Division 4 of Title 2 of the Government Code.
2. If any of the scheduled amounts are insufficient to provide full reimbursement of costs, the State Controller may, upon notifying the Director of Finance in writing, augment those deficient amounts from the unencumbered balance of any other scheduled amounts therein. No order may be issued pursuant to this provision unless written notification of the necessity therefor is provided to the chairperson of the committee in each house which considers appropriations and the Chairperson of the Joint Legislative Budget Committee or his or her designee.

Item	Amount
3. Pursuant to Section 17581 of the Government Code, mandates identified in the appropriation schedule of this item with an appropriation of \$0 and included in the language of this provision are specifically identified by the Legislature for suspension during the 2004–05 fiscal year: <ul style="list-style-type: none"> (1) Filipino Employee Surveys (Ch. 845, Stats. 1978) (2) Lis Pendens (Ch. 889, Stats. 1981) (4) Involuntary Lien Notices (Ch. 1281, Stats. 1980) (5) Domestic Violence Information (Ch. 1609, Stats. 1984) (6) CPR Pocket Masks (Ch. 1334, Stats. 1987) 	
9612-001-0001—For allocation by the Department of Finance to the trustee of the Golden State Tobacco Securitization Corporation, for payment of debt service on the Enhanced Tobacco Settlement Asset-Backed Bonds and operating expenses of the Golden State Tobacco Securitization Corporation in accordance with Section 63049.1 of the Government Code..... Provisions:	1,000
1. Notwithstanding any other provision of law, upon certification by the Golden State Tobacco Corporation, the Department of Finance may authorize expenditures of up to \$200,000,000 in excess of the amount appropriated in this item for the payment of debt service on the Enhanced Tobacco Settlement Asset-Backed Bonds and the payment of operating expenses of the Golden State Tobacco Securitization Corporation in the event tobacco settlement revenues and certain other available amounts are insufficient to pay the costs of debt service and operating costs for the 12 months following such certification. The Department of Finance shall provide notification in writing to the chairperson of the fiscal committee of each house of the Legislature and the Chairperson of the Joint Legislative Budget Committee not more than 30 days after such authorization.	
9620-001-0001—For payment of interest on General Fund loans, upon order of the Director of Finance, for any General Fund loan Provisions:	30,000,000
1. The Director of Finance, the Controller, and the State Treasurer shall satisfy any need of the General Fund for borrowed funds in a manner consis-	

Item

Amount

tent with the Legislature’s objective of conducting General Fund borrowing in a manner that best meets the state’s interest. The state fiscal officers may, among other factors, take into consideration the costs of external versus internal borrowings and potential impact on other borrowings of the state.

- 2. In the event that interest expenses related to internal borrowing exceed the amount appropriated by this item, there is hereby appropriated any amount necessary to pay the interest. Funds appropriated by this item shall not be expended prior to 30 days after the Department of Finance notifies the Joint Legislative Budget Committee of the amounts necessary or not sooner than such lesser time as the Chairperson of the Joint Legislative Budget Committee may determine.
- 3. In the event that Revenue Anticipation Warrants are issued, there is hereby appropriated any amount necessary, in excess of the amount appropriated by this item, to pay the expenses incurred by the Controller, Treasurer, Attorney General, and the Department of Finance in providing for the preparation, sale, issuance, advertising, legal services, credit enhancement, liquidity facility, or any other act which, as approved by the Department of Finance, is necessary for such issuance. Funds appropriated by this item shall not be expended prior to 30 days after the Department of Finance notifies the Joint Legislative Budget Committee of the amounts necessary or not sooner than such lesser time as the Chairperson of the Joint Legislative Budget Committee may determine.

9620-002-0001—For payment of interest on General Fund loans, upon order of the Director of Finance, for any General Fund loan repaid in the 2004–05 fiscal year from loans made previously

Provisions:

2,361,000

- 1. In the event that interest expenses related to internal borrowing exceed the amount appropriated by this item, there is hereby appropriated any amount necessary to pay the interest.
- 2. The Director of Finance shall notify, in writing, the Chairperson of the Joint Legislative Budget

Item	Amount
Committee within 30 days of ordering the repayment of any loan included within the provisions of this item.	
9625-001-0001—For interest payments to the federal government arising from the federal Cash Management Improvement Act of 1990	6,500,000
Provisions:	
1. Expenditures from the funds appropriated by this item shall be made by the Controller, subject to the approval of the Department of Finance, and shall be charged to the fiscal year in which the disbursement is issued.	
2. In the event that expenditures for interest payments to the federal government arising from the federal Cash Management Improvement Act of 1990 exceed the amount appropriated by this item, the Director of Finance may allocate an additional amount not to exceed \$10,000,000 over the amount appropriated by this item. This allocation shall be made no sooner than 30 days after notification to the Chairperson of the Joint Legislative Budget Committee and the chairperson of the fiscal committees in each house.	
9625-001-0042—For interest payments to the federal government arising from the federal Cash Management Improvement Act of 1990, payable from the State Highway Account, State Transportation Fund.	500,000
Provisions:	
1. Provision 1 of Item 9625-001-0001 also applies to this item.	
2. In the event that expenditures for interest payments to the federal government arising from the Cash Management Improvement Act of 1990 exceed the amount appropriated by this item, the Director of Finance may allocate an additional amount not to exceed \$1,000,000 over the amount appropriated by this item. This allocation shall be made no sooner than 30 days after notification to the Chairperson of the Joint Legislative Budget Committee and the chairperson of the fiscal committees in each house.	
9625-001-0494—For interest payments to the federal government arising from the federal Cash Management Improvement Act of 1990, payable from the appropriate special fund.....	1,000

Item	Amount
Provisions:	
1. Provision 1 of Item 9625-001-0001 and Provision 2 of Item 9625-001-0042 also apply to this item.	
9625-001-0988—For interest payments to the federal government arising from the federal Cash Management Improvement Act of 1990, payable from the appropriate nongovernmental cost fund	1,000
Provisions:	
1. Provision 1 of Item 9625-001-0001 and Provision 2 of Item 9625-001-0042 also apply to this item.	
9650-001-0001—For support of Health and Dental Benefits for Annuitants. For the state’s contribution for the cost of a health benefits plan and dental care premiums, for annuitants and other employees, in accordance with Sections 22821.2, 22825.7, 22828, 22829, and 22952 of the Government Code, which cost is not chargeable to any other appropriation	795,554,000
Schedule:	
(1) Health benefit premiums	737,763,000
(2) Dental care premiums	57,791,000
Provisions:	
1. The maximum transfer amounts specified in subdivision (c) of Section 26.00 of this act do not apply to this item.	
2. Notwithstanding Section 22819 of the Government Code or any other provision of law, annuitants and their family members who were employed by the California State University, and who become eligible for Part A and Part B of Medicare during the 2004–05 fiscal year, shall not be enrolled in a basic health benefits plan during the 2004–05 fiscal year. If the annuitant or family member is enrolled in Part A and Part B of Medicare, he or she may enroll in a supplement to the Medicare plan. This provision does not apply to employees and family members who are specifically excluded from enrollment in a supplement to the Medicare plan by federal law or regulation.	
3. The maximum monthly contribution for an annuitant’s health benefits plan shall be \$331 for a single enrollee, \$621 for an enrollee and one dependent, and \$780 for an enrollee and two or more dependents.	
9670-001-0001—For equity claims before the California Victim Compensation and Government Claims Board and for settlements and judgments in cases in	

Item	Amount
<p>which the state is represented by the Department of Justice for the administration and payment of tort liability claims, settlements, compromises and judgments against the state, its officers, servants and employees of state agencies, departments, boards, bureaus or commissions supported from the General Fund, for expenditure by the Department of Justice, subject to approval of the Department of Finance in its discretion.....</p>	0
<p>Provisions:</p> <ol style="list-style-type: none"> 1. There is hereby appropriated from each fund, other than the General Fund, an amount sufficient for payment of tort liability claims, settlements, compromises, and judgments against the state, its officers, servants and employees of state agencies, departments, boards, bureaus, or commissions arising from activities supported from that fund. No expenditure from any appropriation from a fund other than the General Fund for payment of tort liability claims, settlements, compromises, and judgments shall be made unless approved by the Department of Finance in its discretion. 2. Expenditures made under this item shall be charged to the fiscal year in which the warrant is issued by the State Controller. 3. Payment under this item is limited in amount to claims, settlements, compromises, and judgments which do not exceed \$70,000, exclusive of interest, and no payment from this item exceeding that amount shall be approved by the Department of Finance or made by the Department of Justice. 4. No payment shall be approved by the Department of Finance or made by the Department of Justice from this item except in full and final satisfaction of the claim, settlement, compromise, or judgment upon which the payment is based. 5. Funding for the payment of tort liability claims, settlements, compromises, and judgments which require the approval of the Director of Finance shall first be considered from within the affected agency, department, board, bureau, or commission's existing budgeted resources. Payment pursuant to this item (from funds other than the General Fund) shall be made only after the affected agency, department, board, bureau, or commis- 	

Item	Amount
<p>sion has demonstrated to the Department of Finance that insufficient funds are available for payment of all or a portion of the claim.</p> <p>9670-401—For maintenance of accounting records by the State Controller’s office or any other agency maintaining these records, appropriations made in this act for Organization Code 9670 (Equity Claims of California Victim Compensation and Government Claims Board and Settlements and Judgments by Department of Justice) are to be recorded under Organization Code 9671 (Equity Claims of California Victim Compensation and Government Claims Board) and Organization Code 9672 (Settlements and Judgments by Department of Justice).</p> <p>9800-001-0001—For Augmentation for Employee Compensation.....</p>	404,509,000
<p>Provisions:</p> <ol style="list-style-type: none"> 1. The amount appropriated in this item shall not be construed to control or influence collective bargaining between the state employer and employee representatives. 2. The funds appropriated in this item are for employee compensation increases and increases in benefits related thereto, whose compensation or portion thereof, is chargeable to the General Fund, to be allocated by executive order by the Department of Finance to the several state offices, departments, boards, bureaus, commissions, and other state agencies, in augmentation of their respective appropriations or allocations, in accordance with approved memoranda of understanding or, for employees excluded from collective bargaining in accordance with salary and benefit schedules established by the Department of Personnel Administration. 	
<p>9800-001-0494—For Augmentation for Employee Compensation, payable from other unallocated special funds.....</p>	280,747,000
<p>Provisions:</p> <ol style="list-style-type: none"> 1. The amount appropriated in this item shall not be construed to control or influence collective bargaining between the state employer and employee representatives. 2. The funds appropriated in this item are for employee compensation increases and increases in benefits related thereto, whose compensation or 	

Item	Amount
<p>portion thereof, is chargeable to special funds, to be allocated by executive order by the Department of Finance to the several state offices, departments, boards, bureaus, commissions, and other state agencies, in augmentation of their respective appropriations or allocations, in accordance with approved memoranda of understanding or, for employees excluded from collective bargaining in accordance with salary and benefit schedules established by the Department of Personnel Administration.</p>	
<p>9800-001-0988—For Augmentation for Employee Compensation, payable from other unallocated nongovernmental cost funds.....</p>	131,105,000
<p>Provisions:</p>	
<p>1. The amount appropriated in this item shall not be construed to control or influence collective bargaining between the state employer and employee representatives.</p>	
<p>2. The funds appropriated in this item are for employee compensation increases and increases in benefits related thereto, whose compensation or portion thereof, is chargeable to nongovernmental cost funds, to be allocated by executive order by the Department of Finance to the several state offices, departments, boards, bureaus, commissions, and other state agencies, in augmentation of their respective appropriations or allocations, in accordance with approved memoranda of understanding or, for employees excluded from collective bargaining in accordance with salary and benefit schedules established by the Department of Personnel Administration.</p>	
<p>9840-001-0001—For Augmentation for Contingencies or Emergencies</p>	50,000,000
<p>Provisions:</p>	
<p>1. Subject to the conditions set forth in this item, amounts appropriated by this item shall be transferred, upon approval by the Director of Finance, to augment any other General Fund item of appropriation that is made under this act to an agency, department, board, commission, or other state entity. Such a transfer may be made to fund unanticipated expenses to be incurred for the 2004–05 fiscal year under an existing program that is funded by that item of appropriation, but</p>	

Item

Amount

- only in a case of actual necessity as determined by the Director of Finance. For purposes of this item, an “existing program” is one that is authorized by law.
2. The Director of Finance may not approve a transfer under this item to fund any of the following: (a) capital outlay, (b) any expense attributable to a prior fiscal year, (c) any expense related to legislation enacted without an appropriation, (d) startup costs of programs not yet authorized by the Legislature, (e) costs that the administration had knowledge of in time to include in the May Revision, or (f) costs that the administration has the discretion to incur or not incur.
 3. A transfer of funds approved by the Director of Finance under this item shall become effective no sooner than 30 days after the director files written notification thereof with the Chairperson of the Joint Legislative Budget Committee, and the chairpersons of the Senate and Assembly fiscal committees, or no sooner than any lesser time the chairperson of the joint committee or his or her designee may in each instance determine, except for an approval for an emergency expense as defined in Provision 5.
 4. Each notification shall include all of the following: (a) the date the recipient state entity reported to the Department of Finance the need to increase its appropriation, (b) the reason for the expense, (c) the transfer amount approved by the Director of Finance, and (d) the basis of the director’s determination that the expense is actually needed. Each notification shall also include a determination by the director as to whether the expense was considered in a legislative budget committee and formal action was taken not to approve the expense for the 2004–05 fiscal year. Any increase in a department’s appropriation to fund unanticipated expenses shall be approved by the Director of Finance.
 5. The Director of Finance may approve a transfer under this item for an emergency expense only if the approval is set forth in a written notification that is filed with the Chairperson of the Joint Legislative Budget Committee, and the chairpersons of the Senate and Assembly fiscal committees, no later than 10 days after the effective date of the

Item

Amount

- approval. Each notification for an emergency expense shall state the reason for the expense, the transfer amount approved by the director, and the basis of the director's determination that the expense is an emergency expense. For the purposes of this item, "emergency expense" means an expense incurred in response to conditions of disaster or extreme peril that threaten the immediate health or safety of persons or property in this state.
6. Within 15 days of receipt, the Department of Finance shall provide, to the Chairperson of the Joint Legislative Budget Committee and the chairpersons of the Senate and Assembly fiscal committees, copies of all requests, including any supporting documentation, from any agency, department, board, commission, or other state entity for a transfer under this item. The submission to the Legislature of a copy of such a request does not constitute approval of the request by the Director of Finance. Within 15 days of receipt, the director shall also provide copies to these chairpersons of all other requests received by the Department of Finance from any state agency, department, board, commission, or other state entity for any increase in appropriations that are sought to fund unanticipated expenses to be incurred for the 2004–05 fiscal year.
 7. For any transfer of funds pursuant to this item, the augmentation of a General Fund item of appropriation shall not exceed the following during any fiscal year:
 - (a) 20 percent of the amount scheduled on that line for those appropriations made by this act that are \$2,000,000 or less.
 - (b) \$400,000 of the amount scheduled on that line for those appropriations made by this act that are more than \$2,000,000 but equal to or less than \$4,000,000.
 - (c) 10 percent of the amount scheduled on that line for those appropriations made by this act that are more than \$4,000,000.
 8. The Director of Finance may withhold authorization for the expenditure of funds transferred pursuant to this item until such time as, and to the extent that, preliminary estimates of potential unanticipated expenses are verified.

Item	Amount
9840-001-0494—For Augmentation for Contingencies or Emergencies, payable from unallocated special funds.....	15,000,000
Provisions:	
1. Provisions 1, 2, 3, 4, 5, 6, 7, and 8 of Item 9840-001-0001 also apply to this item, except references to General Fund appropriations shall instead refer to special fund appropriations.	
2. For the Augmentation for Contingencies or Emergencies, payable from special funds, there are appropriated from each special fund sums necessary to meet contingencies or emergencies, to be expended only on written authorization of the Director of Finance.	
9840-001-0988—For Augmentation for Contingencies or Emergencies, payable from unallocated nongovernmental cost funds	15,000,000
Provisions:	
1. Provisions 1, 2, 3, 4, 5, 6, 7, and 8 of Item 9840-001-0001 also apply to this item, except references to General Fund appropriations shall instead refer to nongovernmental cost fund appropriations.	
2. For Augmentation for Contingencies or Emergencies, payable from nongovernmental cost funds, there is appropriated from each nongovernmental cost fund that is subject to control or limited by this act, sums necessary to meet contingencies or emergencies, to be expended only on written authorization of the Director of Finance.	
9850-011-0001—For Augmentation for Contingencies or Emergencies (Loans)	(2,500,000)
Provisions:	
1. This appropriation is for loans that may be made to state agencies which derive their support from the General Fund or from sources other than the General Fund, upon terms and conditions for repayment as may be prescribed by the Department of Finance. Any sum so loaned shall, if ordered by the Department of Finance, be transferred by the State Controller to the fund from which the support of the agency is derived.	
2. No loan shall be made which requires repayment from a future legislative appropriation.	
3. Authorizations for loans shall become effective no sooner than 30 days after notification in writing to the Joint Legislative Budget Committee, or	

Item	Amount
no sooner than a lesser time which the committee, or its designee, may in each instance determine, except that this limit shall not apply if the Director of Finance states in writing to the Chairperson of the Joint Legislative Budget Committee the necessity and urgency for the loan which, in the judgment of the director, makes prior approval impractical.	
4. Within 10 days after approval, the Director of Finance shall file with the Joint Legislative Budget Committee copies of all executive orders for loans stating the reasons for, and the amount of, all of these authorizations.	
9860-301-0001—For capital outlay planning and studies funding (10.10.010)	1,000,000
Provisions:	
1. The funds appropriated in this item are to be allocated by the Department of Finance to state agencies to develop design and cost information for new projects for which funds have not been appropriated previously, but which are anticipated to be included in the 2005–06 or 2006–07 Governor’s Budget or 2006–07 five-year capital outlay plans. The amount appropriated in this item shall not be construed as a commitment by the Legislature as to the amount of capital outlay funds it will appropriate in any future fiscal year.	

GENERAL SECTIONS
STATEWIDE

SEC. 3.00. Whenever herein an appropriation is made for support, it shall include salaries and all other proper expenses, including repairs and equipment, incurred in connection with the institution, department, board, bureau, commission, officer, employee, or other agency for which the appropriation is made.

Each item appropriating funds for salaries and wages includes the additional funds necessary to continue the payment of the amount of salaries in effect on June 30, 2004, for the state officers whose salaries are specified by statute.

Whenever herein an appropriation is made for capital outlay, it shall include acquisition of land or other real property, major construction, improvements, equipment, designs, working plans, specifications, repairs, and equipment necessary in connection with a construction or improvement project.

Whenever herein any item of appropriation contains provisions for acquisition of land or other real property, it shall include all necessary expenses in connection with the acquisition of the property.

Whenever herein an appropriation is made in accordance with a schedule set forth after the appropriation, the expenditures from that item for each category, program, or project included in the schedule shall be limited to the amount specified for that category, program, or project, except as otherwise provided in this act. Each schedule is a restriction or limitation upon the expenditure of the respective appropriation made by this act, does not itself appropriate any money, and is not itself an item of appropriation.

As used in this act in reference to the schedules "category," "program," or "project" means a class of expenditure such as, but not limited to:

(a) "Personal services," which shall include all expenditures for payment of officers and employees of the state, including: salaries and wages, workers' compensation, compensation paid to employees on approved leave of absence on account of sickness, unemployment compensation benefits, insurance premiums for workers' compensation coverage, industrial disability leave and payments, nonindustrial disability benefits and payments, the state's contributions to the Public Employees' Retirement Fund, the Teachers' Retirement Fund, the University of California Retirement Fund to provide for that portion of retirement costs to be provided for Hastings College of the Law in Item 6600-001-0001 of this Budget Act, the Old Age and Survivors' Insurance Revolving Fund, the Public Employees' Contingency Reserve Fund, and the state's cost of health benefits plans; but shall not include compensation of independent contractors rendering personal services to the state under contract.

(b) "Operating expenses and equipment," which shall include all expenditures for purchase of materials, supplies, equipment, services (other than services of state officers and employees), departmental services (services provided by other organizational units within a department, including indirect distributed costs), and all other proper expenses.

(c) "Preliminary plans" are defined as a site plan, architectural floor plans, elevations, outline specifications, and a cost estimate. For each utility, site development, conversion and remodeling project, the drawings shall be sufficiently descriptive to accurately convey the location, scope, cost, and the nature of the improvement being proposed.

(d) "Working drawings" are defined as a complete set of plans and specifications showing and describing all phases of a project, architectural, structural, mechanical, electrical, civil engineering, and landscaping systems to the degree necessary for the purposes of accurate bidding by contractors and for the use of artisans in constructing the project. All necessary professional fees and administrative service costs are included in the preparation of these drawings.

(e) "Construction," when used in connection with a capital outlay project, shall include all such related things as fixtures, installed equipment, auxiliary facilities, contingencies, project construction, management, administration and associated costs.

(f) "Minor projects" include planning, working drawings, construction, improvements, and equipment projects not specifically set forth in the schedule.

(g) "Programs" include all expenditures, regardless of category, required to carry out the objectives of the named activity.

For the purpose of further interpreting the meaning of the words, terms and phrases, and uniform codes used in the schedules, reference is hereby made to those documents entitled, "State of California Governor's Budget for 2004-05," submitted by the Governor to the Legislature at the 2004 portion of the 2003-04 Regular Session, the uniform accounting system prescribed by the Department of Finance under the provisions of Section 13300 of the Government Code and following, the Uniform Codes Manual, and the appropriate portions thereof. The Department of Finance shall establish interpretations necessary to carry out the provisions of this section and shall furnish the same to the Controller and to every state agency to which appropriations are made under this act.

SEC. 3.50. Whenever an appropriation is made in this act for support or other expenses for an institution, department, board, bureau, commission, officer, employee, or other agency, the following shall be charged to the appropriation from which salaries and wages are paid: workers' compensation, compensation paid to employees on approved leave of absence on account of sickness, unemployment compensation benefits, industrial disability leave and payments, nonindustrial disability benefits and payments, the administrative costs of the Merit Award Program provided by Section 19823 of the Government Code, the state's contribution to the Public Employees' Retirement Fund as provided by Sections 20822 and 20824 of the Government Code, the state's contribution to the Teachers' Retirement Fund as provided by Sections 22950, 22951, and 23000 of the Education Code, the state's contribution to the Old Age and Survivors' Insurance Revolving Fund as provided by Sections 20862 and 20863 of the Government Code, the state's contribution to the Old Age and Survivors' Insurance Revolving Fund for payment of hospital insurance taxes imposed by the Internal Revenue Code, the state's contribution to the Public Employees' Contingency Reserve Fund, the state's contribution for the cost of health benefits plans as provided by Sections 22825.1, 22828 and 22829 of the Government Code, and the state's contribution for costs of other employee benefits and the administrative costs associated with the provision of benefits established by any state agency legally authorized to negotiate and set salary and benefit levels.

As of the effective date of this act, the state's contributions as provided by Sections 22825.1, 22828 and 22829 of the Government Code

and for costs of any other employee benefits and the administrative costs associated with the provisions of these benefits established by any state agency legally authorized to negotiate and set salary and benefit levels for any month shall be charged to the same appropriations used for payment of salaries and wages from which the employee premium contributions for such month are deducted.

The appropriations made by Sections 20822, 20824, 22825.1, 22828, and 22829 of the Government Code and by Sections 22950, 22951, and 23000 of the Education Code, shall continue to be available for expenditure, and shall be charged for any expenditure that is not chargeable to an appropriation for support or other expenses as provided in this section. This transfer may be chargeable to such appropriation for a previous fiscal year if there are no funds available from that fiscal year.

The Controller may transfer to the State Payroll Revolving Fund the contributions required by Sections 20822, 20824, 22825.1, 22828, and 22829 of the Government Code, contributions required for payment of the hospital insurance tax, and upon certification by the Board of Administration of the Public Employees' Retirement System as required by Section 20826 of the Government Code, may transfer from the State Payroll Revolving Fund to the Public Employees' Retirement Fund and the Old Age and Survivors' Insurance Revolving Fund the amounts of contributions.

SEC. 3.60. (a) Notwithstanding any other provision of law, the employers' retirement contributions for the 2004–05 fiscal year that are chargeable to an appropriation made in this act, with respect to each state officer and employee who is a member of the California Public Employees' Retirement System (CalPERS) and who is in that employment or office, including university members as provided by Section 20751 of the Government Code, shall be the percentage of salaries and wages by state member category as follows:

Miscellaneous, First Tier	17.022%
Miscellaneous, Second Tier.....	13.216%
State Industrial	16.386%
State Safety	20.773%
Highway Patrol	34.434%
Peace Officer/Firefighter	23.841%

The Director of Finance may adjust amounts in any appropriation item, or in any category thereof, in this act as a result of changes from amounts budgeted for employer contribution for 2004–05 fiscal year retirement benefits to achieve the percentages specified in this subdivision.

(b) Notwithstanding any other provision of law, the Director of Finance shall require retirement contributions computed pursuant to subdivision (a) to be offset by the Controller with surplus funds in the Public Employees' Retirement Fund, employer surplus asset accounts.

(c) Notwithstanding any other provision of law, for purposes of calculating the "appropriations subject to limitation" as defined in Section 8 of Article XIII B of the California Constitution, the appropriations in

this act shall be deemed to be the amounts remaining after the adjustments required by subdivisions (a) and (b) are made.

SEC. 4.10. (a) The Director of Finance, in consultation with agency secretaries and other cabinet members, shall reduce General Fund items of appropriations in this act by a total of \$150,000,000. Each agency secretary shall recommend to the Director of Finance amounts to be reduced from the appropriations to departments within the agency. The Director of Finance may provide the agency secretaries with target reduction amounts, in which case the agency secretaries shall provide the Director of Finance with a list of recommended reductions that is no less than the target amount for that agency. For departments not reporting to an agency secretary, the Director of Finance shall determine the amount of the reductions.

(b) The Director of Finance shall not reduce, pursuant to subdivision (a), the amounts appropriated for the following: higher education; the judicial branch; the Legislature; Constitutional Officers; debt service, including, but not limited to, tobacco settlement revenue shortfall, payment of interest on General Fund loans, and interest payments to the federal government; health and dental benefits for annuitants; equity claims before the California Victim Compensation and Government Claims Board; or augmentations for contingencies or emergencies.

(c) A state operations appropriation, and a program, project, or function designated in any line of any schedule set forth by that appropriation, may not be reduced pursuant to subdivision (a) by more than 20 percent. A local assistance appropriation, and a program, project, or function designated in any line of any schedule set forth by that appropriation, may not be reduced pursuant to subdivision (a) by more than 5 percent.

(d) In determining the reductions pursuant to this section, the Director of Finance and agency secretaries may consider savings attributable to any general reorganization plan presented to the Milton Marks "Little Hoover" Commission on State Government Organization and Economy and the Legislature during the 2004–05 fiscal year. Nothing within this section, however, shall be construed as the concurrence of the Legislature on any such reorganization.

(e) After the General Fund appropriations are reduced by \$150,000,000 pursuant to subdivision (a), the Director of Finance may reduce General Fund appropriations by an additional \$150,000,000 from identified reversions or identified savings attributable to any general reorganization plan presented to the Milton Marks "Little Hoover" Commission on State Government Organization and Economy and the Legislature during the 2004–05 fiscal year. Nothing within this subdivision shall be construed as the concurrence of the Legislature on any such reorganization.

(f) Nothing within this section shall be construed to confer any authority upon the Director of Finance to modify or eliminate any other provision of existing law.

(g) The Director of Finance shall report to the Chairperson of the Joint Legislative Budget Committee and the chairperson of the committees of each house of the Legislature that consider appropriations not more than 30 days after the reductions are made pursuant to this section. The report shall list the specific reductions, by department, agency, and program, and state the programmatic effects and impacts of each reduction.

SEC. 4.11. All new positions approved in this act shall be established effective July 1, 2004, unless otherwise approved by the Department of Finance. Before the end of each month, the State Controller's office shall provide to the Department of Finance a listing of each new position approved by this act that will be abolished pursuant to Government Code Section 12439 as a result of the position being vacant for six consecutive pay periods at the end of the immediately preceding month. The report provided by the State Controller's office shall include the department, division, position classification, position number and the date the position was established.

SEC. 4.20. (a) Notwithstanding any other provision of law, the employer's contributions to the Public Employees' Contingency Reserve Fund, as required by Section 22826 of the Government Code, shall be 0.425 percent of the gross health insurance premiums paid by the employer and employee for administrative expenses. The Director of Finance may, not sooner than 30 days after notification to the Joint Legislative Budget Committee, adjust the rate to ensure a three-month reserve in the Public Employees' Contingency Reserve Fund.

SEC. 4.30. (a) Notwithstanding any other provision of law, the Director of Finance may adjust amounts in appropriation items for rental payments on lease-purchase and lease-revenue bonds, or in any category thereof including fees, insurance, and reimbursements in this act as a result of changes from amounts budgeted for the costs for the 2004-05 fiscal year.

(b) Notwithstanding any other provision of law, the allocation may be made from funds appropriated for this purpose or from any other funds legally available for this purpose.

(c) Within 30 days of making any adjustment pursuant to this section, the Department of Finance shall report the adjustment in writing to the Joint Legislative Budget Committee.

SEC. 4.35. (a) The Department of Finance shall identify all positions loaned to the office of the Governor from other departments and agencies and shall transfer those positions and associated General Fund funding authority from the appropriate department or agency to the office of the Governor.

(b) For loaned positions not funded by the General Fund, the Director of Finance shall reduce the funding authority associated with those positions in the appropriate departments, and transfer the position authority to the office of the Governor.

(c) Notwithstanding any other provision of law, the director may augment the amount available for expenditure by the office of the Governor to pay the costs associated with the transfer of loaned positions that were not funded by the General Fund.

(d) Upon conclusion of the 2004–05 fiscal year, the director shall furnish the chairpersons of the committees in each house of the Legislature that consider appropriations and the budget, and the Chairperson of the Joint Legislative Budget Committee, with a report on all transfers and augmentations for that fiscal year.

SEC. 4.45. Notwithstanding Section 11.00 or any other provision of law, upon order of the Director of Finance, the Controller shall transfer up to seven hundred fifty thousand dollars (\$750,000) from Item 1760-001-0666 of Section 2.00 to the Department of Finance. The amount transferred is hereby appropriated to pay costs associated with producing the Governor’s Budget through electronic or other media and printed hard copies as necessary. Printed hard copies of the Governor’s Budget documents will be provided to the Legislative Analyst Office, the Office of the Legislative Counsel, offices of the members of the Legislature, and the fiscal committees of the Legislature. Additional copies will be available through the Office of State Publishing based on the cost of producing the documents requested. Any transfer of appropriation authority exceeding seven hundred fifty thousand dollars (\$750,000) shall not be effective sooner than 30 days following notification by the Director of Finance to the Chairperson of the Joint Legislative Budget Committee and the Chairpersons of the fiscal committees of the Legislature. Any funds appropriated for the purpose of this section, up to seven hundred fifty thousand dollars (\$750,000), may be used to contract with an experienced web development firm selected from the Department of General Services Master Services Agreement list for a period of up to 20 months.

SEC. 4.60. (a) The Legislature finds and declares that it is in the best interest of the state, in managing state office buildings and in leasing private space, to use procedures that recognize the value of these assets to the state and the people served by the state’s programs. Additionally, costs incurred by the state entities for rent, operations and maintenance, debt service, and overhead charges should be assessed to state entities equitably.

(b) On or before August 1, 2004, the Director of Finance shall report to the fiscal committees of both houses of the Legislature the feasibility of assessing a surcharge on state departments that allocates overhead costs currently incurred by the Department of General Services, some of which are recovered through building rental rates, to all state entities receiving a benefit from these costs. This report shall also include recommendations regarding the feasibility of using a portfolio methodology to establish state office building rental rates, including the reallocation of lease revenue debt service payments and operations and maintenance costs associated with state office buildings.

(c) Not sooner than 30 days after the transmittal of this report, the director is authorized to adjust any item of appropriation in this act to effectuate the recommendations or findings included in the report. In addition, the director is authorized to transfer between items of appropriation in order to reallocate debt service consistent with the state's legal obligation to bond holders.

SEC. 4.80. (a) In the event bonds authorized for issuance by the State Public Works Board are not sold and interim financing costs have been incurred, departments that have incurred those costs shall commit a sufficient portion of their support appropriations to repay the interim financing costs.

(b) In the event Energy Efficiency Bonds authorized pursuant to Chapter 2.7 (commencing with Section 15814.10) of Part 10b of Division 3 of Title 2 of the Government Code are not sold and interim financing costs have been incurred by participating community college districts and kindergarten through grade 12 districts, the Controller shall withhold from the annual apportionment of the State School Fund a sufficient portion of the participating district's apportionment to repay the interim financing costs. It is the intent of the Legislature that this commitment shall be included in future Budget Acts until outstanding loans are repaid either through the sale of bonds or from an appropriation.

SEC. 4.90. Notwithstanding any other provision of law, the Department of Finance may transfer any funds previously transferred from the General Fund to the Architectural Revolving Fund back to the General Fund.

SEC. 4.95. Notwithstanding any other provision of law, the Department of Finance may transfer any funds previously transferred from the General Fund to the Inmate Construction Revolving Account back to the General Fund.

SEC. 5.25. (a) Payment of the attorney's fees specified in paragraphs (1) and (2) arising from actions in state courts against the state, its officers, and officers and employees of state agencies, departments, boards, bureaus, or commissions, shall be paid from items of appropriation in this act that support the state operations of the affected agency, department, board, bureau, or commission:

(1) State court actions filed pursuant to Section 1021.5 of the Code of Civil Procedure, the "private attorney general" doctrine, or the "substantial benefit" doctrine.

(2) Writ of mandate actions filed pursuant to Section 10962 of the Welfare and Institutions Code.

(b) Expenditures pursuant to subdivision (a) shall be made by the Controller, subject to the approval of the Director of Finance, and shall be charged to the fiscal year in which the disbursement is issued.

(c) A payment shall not be made by the Controller for expenditures pursuant to subdivision (a) except in full and final satisfaction of the claim, settlement, compromise, or judgment for attorney's fees incurred in connection with a single action.

(d) The Director of Finance shall notify the Chairperson of the Joint Legislative Budget Committee, the Chairperson of the Senate Committee on Budget and Fiscal Review, and the Chairperson of the Assembly Budget Committee pursuant to Items 9840-001-0001, 9840-001-0494, and 9840-001-0988 of Section 2.00 when there are insufficient funds appropriated in this act in support of the state operations of the affected agency, department, board, bureau, or commission to satisfy the claim completely.

SEC. 5.30. The amount of any special fund or nongovernmental cost fund appropriation made under this act to any state agency, board, commission, or other entity of state government is hereby augmented in the amount approved by the Director of Finance as necessary to fund any increase imposed during the 2004–05 fiscal year by the Department of Justice in the rates for attorney services provided to that entity. An augmentation approved by the Director of Finance shall be made not sooner than 30 days after notification in writing to the Chairperson of the Joint Legislative Budget Committee, or not sooner than a lesser time that the chairperson or his or her designee may in each instance determine. An appropriation from a fund may be augmented pursuant to this section only if the fund has a sufficient reserve balance to cover the amount of the augmentation. No fee increase may be imposed to fund an augmentation approved pursuant to this section.

SEC. 5.40. (a) It is the intent of the Legislature that all amounts appropriated by this act to the following departments to implement the CALFED Bay-Delta Program shall be available for expenditure in accordance with the schedule of expenditures for the CALFED Bay-Delta Program, broken down by program element, as set forth in Item 3870 of the Supplemental Report to this act:

- (1) Item 0540—Secretary for Resources
- (2) Item 3480—Department of Conservation
- (3) Item 3540—Department of Forestry and Fire Protection
- (4) Item 3560—State Lands Commission
- (5) Item 3600—Department of Fish and Game
- (6) Item 3640—Wildlife Conservation Board
- (7) Item 3760—State Coastal Conservancy
- (8) Item 3820—San Francisco Bay Conservation and Development Commission
- (9) Item 3860—Department of Water Resources
- (10) Item 3870—California Bay-Delta Authority
- (11) Item 3940—State Water Resources Control Board
- (12) Item 8570—Department of Food and Agriculture

(b) The amounts appropriated by this act to implement the CALFED Bay-Delta Program shall be available only for projects, activities, and purposes that are consistent with the CALFED Record of Decision, including the accompanying environmental impact statement/environmental impact report previously certified by the state lead agency pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code.

(c) The amounts appropriated from accounts established under Division 24 (commencing with Section 78500) and Division 26 (commencing with Section 79000) of the Water Code shall be limited to the purposes provided for by those provisions.

(d) Notwithstanding Sections 26.00 and 28.50 of this act, the Director of Finance may, pursuant to a request by an affected agency specified in subdivision (a) of this section seeking the transfer and the California Bay-Delta Authority, or pursuant to a joint request of these agencies where more than one agency is affected, authorize a transfer of an amount that exceeds \$200,000 from an amount available for expenditure in one scheduled program element to one or more of the other scheduled elements. Any transfer may be authorized pursuant to this provision not sooner than 30 days after notification in writing of the transfer is provided to the chairpersons of the fiscal committees in each house of the Legislature and the Chairpersons of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the Chairpersons of the Joint Legislative Budget Committee, or his or her designee, may in each instance determine. The notification to the Legislature shall specify the justification for the transfer.

SEC. 6.00. No more than \$100,000 of the funds appropriated for support purposes under Section 2.00 or any other sections of this act may be encumbered for preliminary plans, working drawings, or construction of any project for the alteration of a state facility unless the Director of Finance determines that the proposed alteration is critical and that it is necessary to proceed using funds appropriated for support purposes. Any approved critical project costing more than \$100,000 shall be reported to the Chairperson of the Joint Legislative Budget Committee or his or her designee, not less than 30 days prior to requesting bids for the project. The report shall detail those factors that make the project so critical that it must proceed using support funds. No project described by this section may cost more than \$400,000.

SEC. 6.60. The Director of Finance shall complete a survey of each state agency, department, board, and commission to determine if, between the 2003–04 and 2004–05 fiscal years, there are any savings related to workers' compensation costs. To the extent that savings are available, those funds shall be transferred to the General Fund. Up to \$40,000,000 of these savings shall be appropriated to Schedule (5) of Item 5180-101-0001 in lieu of up to \$40,000,000 of the amount appropriated in Item 5180-101-0514.

SEC. 8.00. (a) Notwithstanding Section 28.00 of this act, any amounts received from the federal government for the purposes of funding antiterrorism costs in the state that exceed the current appropriation of federal funds for that purpose, are hereby appropriated. These federal funds shall be allocated upon order of the Director of Finance to state departments for state or local assistance purposes or directly to local governments to address high-priority needs for costs of funding antiterrorism incurred in the 2003–04 fiscal year and ongoing or new costs for the 2004–05 fiscal year.

(b) Allocations made to state departments may be used to offset expenditures paid or to be paid from other funding sources. Allocations made for the purpose of an offset shall be applied as a negative expenditure to the appropriation where the expenditure has, or will be charged.

(c) Allocations pursuant to this section may be authorized not sooner than 30 days after notification, to the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the Chairperson of the Joint Legislative Budget Committee, or his or her designee, may in each instance determine.

SEC. 8.50. (a) In making appropriations to state agencies that are eligible for federal programs, it is the intent and understanding of the Legislature that applications made by the agencies for federal funds under federal programs shall be for the maximum amount allowable under federal law. Therefore, any amounts received from the federal government are hereby appropriated from federal funds for expenditure or for transfer to, and disbursement from, the State Treasury fund established for the purpose of receiving the federal assistance subject to any provisions of this act that apply to the expenditure of these funds, including Section 28.00 of this act.

(b) However, if federal funds for block grant programs assumed by the state or for any item receiving federal funds are reduced by more than 5 percent of the amount appropriated in this act, the Director of Finance shall notify the chairperson of the committee in each house which considers appropriations, and the Chairperson of the Joint Legislative Budget Committee, in writing within 30 days after notification by the federal government that federal funds have been reduced, and shall include an estimate of the amount of the available or anticipated federal funds, the 2004–05 fiscal year expenditures of each program affected by the reduction, the effect of reduced funding on service levels authorized by this act, and a plan of reduced expenditures for each program affected by the reduction. The plan shall be operational on an interim basis for up to 45 days pending legislative review, after which time the plan shall become permanent.

SEC. 8.51. Each state agency shall, by certification to the Controller, identify the account within the Federal Trust Fund when charges are made against any appropriation made herein from the Federal Trust Fund.

SEC. 8.52. (a) The Director of Finance may reduce items of appropriation upon receipt or expenditure of federal trust funds in lieu of the amount appropriated for the same purpose and may make allocations for the purpose of offsetting expenditures. Allocations made for the purpose of offsetting existing expenditures shall be applied as a negative expenditure to the appropriation where the expenditure was charged.

(b) The director shall notify in writing the Chairperson of the Joint Legislative Budget Committee and the chairpersons of the fiscal committees in each house of the Legislature not less than 30 days prior to

the effective date of any adjustments to items of appropriations made pursuant to this section or not sooner than whatever lesser time the Chairperson of the Joint Legislative Budget Committee, or his or her designee, may in each instance determine. The notification shall include, but not be limited to, the basis for the proposed appropriations adjustments, a description of the fiscal assumptions used in making the appropriation adjustments, and any necessary background information regarding the programs to be adjusted. Any expenditure of federal funds for purposes other than offsetting other fund appropriations shall continue to be subject to the provisions of Section 28.00.

SEC. 9.20. Notwithstanding Section 15860 of the Government Code, the amount of funds expended for administrative costs associated with any appropriation contained in this act for acquisition of property pursuant to the Property Acquisition Law (Part 11 (commencing with Section 15850) of Division 3 of Title 2 of the Government Code) shall be limited to the amount specified for those costs in the Supplemental Report of the Budget Act of 2004. Amounts for administrative costs may be augmented by no more than 5 percent by the State Public Works Board. Notwithstanding the foregoing, any amounts needed for administrative costs associated with acquisition through the condemnation authority of the State Public Works Board shall be provided through augmentation of the affected appropriations as authorized by existing law.

SEC. 9.30. In the event that federal courts issue writs of execution for the levy of state funds and such writs are executed, the State Controller shall so notify the Department of Finance. The Department of Finance shall then notify the State Controller of the specific appropriation or fund to be charged. Federal writs of execution for the levy of state funds may only be charged against appropriations or funds having a direct programmatic link to the circumstances under which the federal writ was issued. If the appropriate department or agency no longer exists, or no linkage can be identified, the federal writ shall be charged to the unappropriated surplus of the General Fund. In the event that an appropriation in the act would have insufficient funding by such a charge, funding augmentations must follow the regular budget processes.

SEC. 9.45. (a) Any state agency, department, board, or commission shall provide notification to the Department of Finance and the Joint Legislative Budget Committee not less than 30 days prior to committing funding from Proposition 40 or Proposition 50, if all of the following criteria apply:

- (1) The funds will be used, either directly or through a grant, for the purchase of interests in, or the restoration or rehabilitation of property.
- (2) The funds will be used for a grant or project that is not appropriated in statute by name or description.
- (3) The total expenditure for the project, including, but not limited to, Proposition 40 or Proposition 50 funds, is in excess of \$25 million.

(b) The notification shall include a detailed description of the portion of the project being funded and a detailed description of the whole project. For the purposes of this section, the criteria set forth in subdivision (a) shall apply to both single transactions and cumulative transactions that involve the purchase of properties near or adjacent to each other.

(c) For purchases and grants meeting the criteria set forth in subdivision (a), the state agency, department, board, or commission may take public actions and hold public meetings prior to 30 days following notification only if such actions are expressly approved pending the completion of the 30-day review by the Department of Finance and the Joint Legislative Budget Committee, or not sooner than whatever lesser time the Chairperson of the Joint Legislative Budget Committee, or his or her designee, may in each instance determine. The seller or grantee must be explicitly notified in writing of this condition 10 days prior to any action taken.

SEC. 9.50. For minor capital outlay projects for which, pursuant to Sections 10108 and 10108.5 of the Public Contract Code, the services of the Department of General Services are not required and a state agency or department is authorized to carry out its own project, the amount of the unencumbered balance of the project shall be determined in accordance with Section 14959 of the Government Code. Upon receipt of bids for the project, an estimate of any amount necessary for the completion of the project, including supervision, engineering, and other items, if any, shall be deemed a valid encumbrance and shall be included with any other valid encumbrance in determining the amount of an unencumbered balance.

SEC. 11.00. (a) A state agency to which state funds are appropriated by one or more statutes, including this act, for an information technology project may not enter into, or agree to any contract or any contract amendment, in the 2004–05 fiscal year that results, in the aggregate, in an increase in the budgeted cost of the project exceeding five hundred thousand dollars (\$500,000), or 10 percent of the budgeted cost of the project, whichever is less, unless the approval of the Director of Finance is first obtained and written notification of that approval is provided by the department to the Chairperson of the Joint Legislative Budget Committee, and the chairperson of the budget committee of each house of the Legislature, not less than 30 days prior to the effective date of the approval, or not sooner than whatever lesser time the chairperson of the joint committee, or his or her designee, may in each instance determine. Each notification required by this section shall (1) explain the necessity and rationale for the proposed contract or amendment, (2) identify the cost savings, revenue increase, or other fiscal benefit of the proposed contract or amendment, and (3) identify the funding source for the proposed contract or amendment.

(b) Subdivision (a) does not apply to a resulting increase in the budgeted cost of a project that is less than one hundred thousand dollars

(\$100,000), or that is funded by an augmentation authorized pursuant to Section 26.00 of this act.

(c) The following definitions apply for the purposes of this section:

(1) "Budgeted cost of a project" means the total cost of the project as identified in the most recent feasibility study report, special project report, or equivalent document submitted to the Legislature in connection with its consideration of a bill that appropriated any state funding for that project.

(2) "State agency" means each agency of the state that is subject to Article 2 (commencing with Section 13320) of Chapter 3 of Part 3 of, Division 3 of Title 2 of the Government Code except that this control section shall not apply to the University of California, the California State University, the State Compensation Insurance Fund, the community college districts, agencies provided for by Article VI of the California Constitution, or the Legislature.

SEC. 11.10. (a) Before a department may enter into or amend a statewide software license agreement not previously approved by the Legislature that obligates state funds in the current year or future years, the Director of Finance shall notify the Legislature whether or not the obligation will result in a net expenditure or savings. A department shall prepare and submit to the Department of Finance a business proposal containing the following elements: installed base analysis, future use (including assumptions for future use), the reason for choosing a statewide license agreement rather than any other procurement method such as a volume purchase agreement, a cost/benefit analysis, a cost allocation methodology, and funding plan. A statewide software license agreement may not be entered into or amended unless the approval of the Director of Finance is first obtained and written notification of that approval is provided by the department to the Chairperson of the Joint Legislative Budget Committee, and the chairperson of the budget committee of each house of the Legislature, not less than 30 days prior to the effective date of the approval, or not sooner than whatever lesser time the chairperson of the joint committee, or his or her designee, may in each instance determine. Each notification required by this section shall:

(1) Explain the necessity and rationale for the proposed agreement.

(2) Identify the cost savings, revenue increase, or other fiscal benefit of the proposed agreement.

(3) Identify the funding source for the proposed agreement.

(b) For purposes of this section, "statewide software license agreement" means a software license contract that can be used by multiple state agencies subject to Article 2 (commencing with Section 13320) of Chapter 3 of Part 3 of, Division 3 of Title 2 of the Government Code except that this Control Section shall not apply to the University of California, the California State University, the State Compensation Insurance Fund, the community college districts, agencies provided for by Article VI of the California Constitution, or the Legislature.

(c) Subdivision (a) does not apply if the amount of the proposed contract or amendment is less than \$1,000,000 in the aggregate.

SEC. 11.11. In order to protect the privacy of state employees and ensure the security of the payment of public funds, all departments, boards, offices, and other agencies and entities of the state shall distribute pay warrants and direct deposit advices to employees in a manner that ensures that personal and confidential information contained on the warrants and direct deposit advices is protected from unauthorized access. The Department of Personnel Administration shall advise all departments, boards, offices, and other agencies and entities of state government of the requirements contained in this section.

SEC. 11.52. Notwithstanding any other provision of law, the State Controller shall transfer to the General Fund the unencumbered balance, as of June 30, 2004, from the Energy and Resources Fund.

SEC. 12.00. For the purposes of Article XIII B of the California Constitution, there is hereby established a state “appropriations limit” of sixty-four billion five hundred eighty-eight million dollars (\$64,588,000,000) for the 2004–05 fiscal year.

Any judicial action or proceeding to attack, review, set aside, void, or annul the “appropriations limit” for the 2004–05 fiscal year shall be commenced within 45 days of the effective date of this act.

SEC. 12.10. There is hereby appropriated from the General Fund the sum of forty-eight million dollars (\$48,000,000) to satisfy the state’s 2004–05 obligation pursuant to the Settlement Agreement in the case of Craig Brown v. U.S. Department of Health and Human Services, et al. (Ninth Circuit Court of Appeals, Case No. 99-16992).

SEC. 12.30. There is hereby appropriated from the General Fund for transfer to the Special Fund for Economic Uncertainties by the Controller, upon order of the Director of Finance, an amount necessary to bring the balance of this special fund up to the amount stated in the 2004–05 Final Change Book for the 2004–05 fiscal year ending balance in the Special Fund for Economic Uncertainties. The amount so transferred shall be reduced by the amount of excess revenues subject to Section 2 of Article XIII B of the California Constitution, as determined by the Director of Finance.

SEC. 12.32. (a) It is the intent of the Legislature that appropriations that are subject to Section 8 of Article XVI of the California Constitution be designated with the wording “Proposition 98.” In the event these appropriations are not so designated, they may be designated as such by the Department of Finance, where that designation is consistent with legislative intent, within 30 days after notification in writing of the proposed designation to the chairperson of the committee in each house of the Legislature that considers appropriations and the Chairperson of the Joint Legislative Budget Committee, or within a lesser time that the chairperson of the joint committee, or his or her designee, determines.

(b) Pursuant to the Proposition 98 funding requirements established in Chapter 2 (commencing with Section 41200) of Part 24 of the Education Code, the total appropriations for Proposition 98 for the 2004–05 fiscal year are \$34,036,404,000 or 43.1 percent of total General Fund revenues and transfers subject to the state appropriations limit. General Fund revenues appropriated for school districts are \$30,875,301,000 or 39 percent of total General Fund revenues and transfers subject to the state appropriations limit. General Fund revenues appropriated for community college districts are \$3,066,558,000 or 3.9 percent of total General Fund revenues and transfers subject to the state appropriations limit. General Fund revenues appropriated for other state agencies that provide direct elementary and secondary level education, as defined in Section 41302.5 of the Education Code, are \$94,545,000 or 0.1 percent of total General Fund revenues and transfers subject to the state appropriations limit.

SEC. 12.40. (a) Notwithstanding any other provision of law, not more than 10 percent of the amount apportioned to any school district, county office of education, or other educational agency under the programs funded in this act that were funded in Item 6110-230-0001 of Section 2.00 of SB 160 of the 1999–2000 Regular Session, as introduced on January 8, 1999, may be expended by that recipient for the purposes of any other program for which the recipient is eligible for funding under those items, except that the total amount of funding allocated to the recipient under this item that is expended by the recipient for the purposes of any of those programs shall not exceed 115 percent of the amount of state funding allocated pursuant to the appropriations to that recipient for those programs in this act for the 2004–05 fiscal year. Notwithstanding any other provision of law, for the 2004–05 fiscal year, local education agencies may also use this authority to provide the funds necessary to initiate a conflict resolution program pursuant to Chapter 2.5 (commencing with Section 32260) of Part 19 of the Education Code, and to continue to support following the three-to-five year state grant period, or to expand, a Healthy Start program pursuant to Chapter 5 (commencing with Section 8800) of Part 6 of the Education Code.

(b) The education programs that are eligible for the flexibility provided in subdivision (a) included the following items: Items 6110-108-0001, 6110-111-0001, 6110-116-0001, 6110-119-0001, 6110-120-0001, 6110-122-0001, 6110-124-0001, 6110-127-0001, 6110-128-0001, 6110-131-0001, 6110-132-0001, 6110-151-0001, 6110-163-0001, 6110-167-0001, 6110-181-0001, 6110-193-0001, 6110-197-0001, 6110-203-0001, 6110-209-0001, and 6110-224-0001 of this act.

(c) As a condition of receiving the funds provided for the programs identified in subdivision (b), local education agencies shall report to the State Department of Education by October 15, 2005, on any amounts shifted between these programs pursuant to the flexibility provided in subdivision (a). The Department of Education shall collect and provide

this information to the Joint Legislative Budget Committee, chairs and vice chairs of the fiscal committees for education of the Legislature and the Department of Finance, by February 1, 2006.

SEC. 12.60. It is the intent of the Legislature that education programs with voluntary participation be funded at statutorily authorized levels. Notwithstanding any other provision of law, the Controller, upon approval of the Director of Finance, shall transfer unobligated funds between any of the following voluntary participation programs to the extent needed to fully fund eligible participation. First priority for allocation of savings shall be given to the CalSAFE program, Item 6110-198-0001. The Department of Finance shall notify the Joint Legislative Budget Committee of any transfers made under this Control Section. The items between which the Controller may transfer funds pursuant to this section are the following: Items 6110-104-0001, 6110-158-0001, 6110-190-0001, 6110-195-0001, 6110-198-0001, 6110-211-0001, 6110-232-0001, and 6110-234-0001.

SEC. 12.75. The Superintendent of Public Instruction shall reduce by \$2,666,000 funding for basic aid school districts from the Proposition 98 categorical funds appropriated in this act that would otherwise be allocated to basic aid school districts, in accordance with legislation that goes into effect on or before January 1, 2005.

SEC. 13.00. (a) Notwithstanding any other provision of law, expenditures under Item 0160-001-0001 of Section 2.00 of this act or any appropriation in augmentation of that item shall be exempt from Chapter 7 (commencing with Section 11700) of Part 1 of, and Article 2 (commencing with Section 13320) of Chapter 3 of Part 3 of, Division 3 of Title 2 of the Government Code, Division 2 (commencing with Section 1100) of the Public Contract Code, and subdivision (a) of Section 713 of Title 2 of the California Code of Regulations, and may be expended as set forth in the Governor's Budget, or for other purposes, including expenditures for the number of positions in various classifications authorized by the Joint Rules Committee.

(b) Notwithstanding any other provision of law, the unencumbered balances as of June 30, 2005, of the appropriations made by Items 0160-001-0001 and 8840-001-0001 of the Budget Act of 2004 are re-appropriated and shall be available for encumbrance until June 30, 2006, for the same programs and purposes for which appropriations for these items have been made by this act.

(c) Notwithstanding any other provision of law, all money that is received as payment for the sale of services or personal property by the agency that has not been taken into consideration in the schedule of Item 0160-001-0001 or is in excess of the amount so taken into consideration is to be credited to that item and is hereby appropriated in augmentation of that item for the same programs and purposes for which appropriations for that item have been made by this act.

(d) Notwithstanding any other provision of law, the Legislative Counsel Bureau may convert or reclassify positions in the bureau, as deemed appropriate by the Legislative Counsel, for inclusion, or reded-

ignation, in the career executive assignment band, to the extent that the total number of positions in the career executive band in the bureau does not exceed 3 percent of the positions in the bureau. Any position that is converted or reclassified shall not be subject to review or approval by the Department of Personnel Administration or State Personnel Board.

SEC. 14.00. (a) Notwithstanding any other provision of law, if the Director of the Department of Consumer Affairs determines in writing that there is insufficient cash in a special fund under the authority of a board, commission, or bureau of the department to make one or more payments currently due and payable, the director may order the transfer of moneys to that special fund, in the amount necessary to make the payment or payments, as a loan from a special fund under the authority of another board, commission, or bureau of the department. That loan shall be subject to all of the following conditions:

(1) No loan from a special fund shall be made that would interfere with the carrying out of the object for which the special fund was created.

(2) The loan shall be repaid as soon as there is sufficient money in the recipient fund to repay the amount loaned, but no later than a date 18 months after the date of the loan. Interest on the loan shall be paid from the recipient fund at the rate accruing during the loan period to moneys in the Pooled Money Investment Account.

(3) The amount loaned shall not exceed the amount that the appropriate board, commission, or bureau is statutorily authorized at the time of the loan to expend during the 2004–05 fiscal year from the recipient fund.

(4) The terms and conditions of the loan are approved, prior to the transfer of funds, by the Department of Finance pursuant to appropriate fiscal standards.

(b) (1) Notwithstanding any other provision of law, the Department of Consumer Affairs, during the 2004–05 fiscal year, may order the release of moneys from the clearing account in the Consumer Affairs Fund in an amount exceeding the amount advanced to the clearing account from a special fund within the department, as a loan to make one or more payments on behalf of that special fund that are currently due and payable. To the extent that the amount of moneys currently in the clearing account is insufficient to make the payment or payments on behalf of that special fund, the department may transfer additional moneys to the clearing account from any other special fund under the authority of a board, commission, or bureau of the department to include in the loan. A loan made to a special fund under this subdivision shall be subject to all of the following conditions:

(A) The loan shall not be made if it would reduce the amount advanced to the clearing account from another special fund, or the amount contained in that special fund, as applicable, to an extent that would interfere with the carrying out of the object for which that special fund was created.

(B) The loan shall be repaid as soon as there is sufficient money in the recipient fund to repay the amount loaned, but no later than a date 60 days after the date of the loan.

(C) The amount loaned shall not exceed the amount that the appropriate board, commission, or bureau is statutorily authorized at the time of the loan to expend during the 2004–05 fiscal year from the recipient fund.

(2) For purposes of this subdivision, the “clearing account” in the Consumer Affairs Fund is the account established in that fund, consisting of moneys advanced from the various special funds within the department, from which the Department of Consumer Affairs pays operating and other expenses of each special fund in an amount ordinarily not exceeding the amount advanced from that special fund.

(c) The Director of the Department of Consumer Affairs shall provide a report by March 1, 2005, on all loans initiated or repayments made pursuant to subdivision (a) or (b) within the preceding 12-month period to the chairperson of the budget committee, and the chairperson of the appropriate legislative oversight committee, of each house of the Legislature.

(d) At least 10 days prior to initiating a loan to be made pursuant to subdivision (a) or (b), the Director of the Department of Consumer Affairs shall provide written notification to the Joint Legislative Budget Committee if either (1) any loan from any one fund exceeds \$200,000 or (2) the aggregate amount of loans from any one fund exceeds \$200,000.

SEC. 15.00. (a) Notwithstanding any other provision of law, the Director of Finance may reallocate amounts appropriated in this act, as necessary, for the purpose of implementing a plan to consolidate the state’s data centers and information technology functions and activities not sooner than 30 days after notification in writing of the necessity thereof is provided to the chairperson of the committee in each house of the Legislature that considers appropriations and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the Chairperson of the Joint Legislative Budget Committee, or his or her designee, may in each instance determine. This section shall also be enacted consistent with the provisions of Article 7.5 (commencing with Section 12080) of Chapter 1 of Part 2 of Division 3 of Title 2 of, and Section 19050.9 of, the Government Code.

(b) The Controller, upon order of the Director of Finance, shall transfer \$3,500,000 from the Stephen P. Teale Data Center Revolving Fund to the General Fund. The \$3,500,000 transfer to the General Fund is deemed to meet the requirements of Section 41.5(a) of Chapter 225 of the Statutes of 2003 to achieve a \$3,500,000 General Fund savings as a result of consolidation of the state’s data centers. In addition, the Director of Finance shall identify all other funds that would be due a transfer proportional to the General Fund transfer. The Controller shall, upon

order of and as specified by the Director of Finance, transfer those monies from the Stephen P. Teale Data Center Revolving Fund to those specified funds.

SEC. 17.00. The Budget Act of 2004 includes \$63,712,000 (\$17,844,000 from the General Fund, \$44,840,000 from federal funds, and \$1,028,000 from special funds) for applicant state agencies, departments, boards, commissions, or other entities of state government in support of federal Health Insurance Portability and Accountability Act (HIPAA) of 1990 activities. These funds are allocated to the following entities:

California Health and Human Services Agency	
General Fund.....	2,914,000
Federal Funds.....	595,000
Public Employees' Retirement System	
Special Funds.....	223,000
Office of Statewide Health Planning and Development	
Special Funds.....	99,000
Department of Aging	
General Fund.....	12,000
Federal Funds.....	12,000
Department of Alcohol and Drug Programs	
General Fund.....	817,000
Federal Funds.....	947,000
Department of Health Services	
General Fund.....	11,318,000
Special Funds.....	451,000
Federal Funds.....	41,323,000
Managed Risk Medical Insurance Board	
General Fund.....	25,000
Special Funds.....	30,000
Federal Funds.....	46,000
Department of Developmental Services	
General Fund.....	958,000
Federal Funds.....	874,000
Department of Mental Health	
General Fund.....	1,042,000
Federal Funds.....	1,043,000
Department of Corrections	
General Fund.....	633,000
Department of Personnel Administration	
Special Funds.....	225,000
Department of Veterans Affairs	
General Fund.....	125,000

SEC. 24.00. For the 2004–05 fiscal year, the donations and oil and mineral revenues from federal lands that are deposited in the State School Fund shall be divided between Section A and Section B of the State School Fund, with 85 percent of these revenues to be credited to Section A of the fund exclusively for regular apportionments for school

districts serving pupils in kindergarten or any of grades 1 to 12, inclusive, and 15 percent to Section B of the fund exclusively for community college district regular apportionments. The amounts accruing to the State School Fund under this section shall be disbursed fully before any General Fund transfers to Section A or Section B of the State School Fund are disbursed for regular apportionments.

SEC. 24.03. Notwithstanding any other provision of law, funds appropriated by Section 2.00, Section 8.50, Section 28.00, Section 28.50, or any other provision of this act may not be expended for the support of any program, network, or material, with the exception of instruction to pupils who are identified as deaf or hearing impaired pursuant to 34 C.F.R. 300.7(b) paragraphs (3) and (4), that promotes or uses reading instruction methodologies that emphasize contextual clues in lieu of fluent decoding.

SEC. 24.10. (a) Notwithstanding Section 1464 of the Penal Code or Section 41304 of the Education Code, the first one million one hundred six thousand dollars (\$1,106,000) received by the Driver Training Penalty Assessment Fund for the 2004–05 fiscal year shall be available for the purposes of Item 6110-001-0178 of Section 2.00 of this act. The amount retained by the Driver Training Penalty Assessment Fund for the purposes of Item 6110-001-0178 may be adjusted by the Department of Finance for actions pursuant to any Control Section of this act.

(b) After moneys are retained by the Driver Training Penalty Assessment Fund pursuant to subdivision (a), the Controller shall transfer any remaining balances as follows: \$4,121,000 to the Victim Witness Assistance Fund; and \$14,000,000 to the Peace Officers' Training Fund. Any remaining unallocated moneys in the Driver Training Penalty Assessment Fund shall be transferred to the General Fund.

SEC. 24.30. Notwithstanding any other provision of law, the Controller, upon order of the Director of Finance, shall transfer rental income received in the 2004–05 fiscal year pursuant to Section 17089 of the Education Code from the State School Building Aid Fund to the General Fund.

SEC. 24.60. Each state entity receiving lottery funds shall annually report to the Governor and the Legislature on or before May 15 the amount of lottery funds that the entity received and the purposes for which those funds were expended in the prior fiscal year, including administrative costs. The State Department of Education shall report on behalf of K–12 entities. If applicable, the entity shall also report the amount of lottery funds received on the basis of adult education average daily attendance (ADA) and the amount of lottery funds expended for adult education.

SEC. 24.70. From the funds appropriated to the State Department of Education for local assistance, the department shall ensure that the expenditure of funds allocated to a local educational agency (LEA), through a contract between the department and the LEA or through a grant from the department to the LEA, shall be subject to the LEA's fiscal accountability policies and procedures. If it is necessary for the

LEA to establish a separate entity to complete the work scope of the contract or grant, the fiscal accountability policies and procedures for that entity shall be the same as those of the LEA, or amended only with the approval of both the superintendent of schools of the LEA and a fiscal representative of the department designated by the Superintendent of Public Instruction. Further, the department shall have the authority to provide for an audit of the expenditures under the contract or grant between the department and the LEA to verify conformance with appropriate fiscal accountability policies and procedures. The cost of the audit, if required, shall be charged to the audited contract or grant.

SEC. 25.25. Notwithstanding any other provision of law, a sum not to exceed \$2,520,000 is appropriated from various special and non-governmental cost funds to the State Controller for payment of costs to support the replacement of the existing automated human resource/payroll systems known as the 21st Century Project. The Controller shall assess these funds in sufficient amounts to pay for the authorized 21st Century Project costs that are attributable to such funds pursuant to legislation enacted during the 2003–04 Regular Session of the Legislature. Assessments in support of the expenditures for the 21st Century Project shall be made quarterly and the total amount assessed from these funds in the 2004–05 fiscal year shall not exceed the total expenditures incurred by the State Controller for the 21st Century Project that are attributable to those funds in the 2004–05 fiscal year.

SEC. 25.50. Notwithstanding any other provision of law, an amount not to exceed five hundred seventy-nine thousand dollars (\$579,000) is hereby appropriated from various funds to the State Controller as specified below for reimbursement of costs for the procurement, development, and implementation of a new Apportionment Payment System:

0046	Public Transportation Account	\$ 9,000
0062	Highway Users Tax Account	166,000
0064	Motor Vehicle License Fee Account	204,000
0877	DMV Local Agency Collection Fund	1,000
0932	Trial Court Trust Fund	79,000
0965	Timber Tax Fund	2,000
0969	Public Safety Account	118,000
	Total, All Funds	\$579,000

The Controller shall assess these funds for the costs of the new Apportionment Payment System because apportionment payments in excess of ten million dollars (\$10,000,000) are made annually from these funds. Assessments in support of the expenditures for the Apportionment Payment System shall be made monthly, and the total amount assessed from these funds may not exceed the total expenditures incurred by the State Controller for the Apportionment Payment System for the 2004–05 fiscal year.

SEC. 26.00. (a) It is the intent of the Legislature, in enacting this section, to provide flexibility for the administrative approval of intra-schedule transfers within individual items of appropriation in those in-

stances where the transfers are necessary for the efficient and cost effective implementation of the programs, projects, and functions funded by this act. No transfer shall be authorized under this section to either eliminate any program, project, or function, except when implementation is found to be no longer feasible in light of changing circumstances or new information, or establish any new program, project, or function.

(b) The Director of Finance may, pursuant to a request by the officer, department, division, bureau, board, commission, or other agency to which an appropriation is made by this act, authorize the augmentation of the amount available for expenditure in any schedule set forth for that appropriation, by making a transfer from any of the other designated programs, projects, or functions within the same schedule. No intraschedule transfer may be made under this section to fund any capital outlay purpose, regardless of whether budgeted in a capital outlay or a local assistance appropriation. Upon the conclusion of the 2004–05 fiscal year, the Director of Finance shall furnish the chairpersons of the committees in each house of the Legislature that consider appropriations and the Budget, and the Chairperson of the Joint Legislative Budget Committee, with a report on all authorizations given pursuant to this section during that fiscal year.

(c) Intraschedule transfers of the amounts available for expenditure for a program, project, or function designated in any line of any schedule set forth for that appropriation by transfer from any of the other designated programs, projects, or functions within the same schedule shall not exceed, during any fiscal year:

(1) 20 percent of the amount so scheduled on that line for those appropriations made by this act that are \$2,000,000 or less.

(2) \$400,000 of the amount so scheduled on that line for those appropriations made by this act that are more than \$2,000,000 but equal to or less than \$4,000,000.

(3) 10 percent of the amount so scheduled on that line for those appropriations made by this act that are more than \$4,000,000.

(4) The Department of Transportation Highway Program shall be limited to a schedule change of 10 percent.

(d) Any transfer in excess of \$200,000 may be authorized pursuant to this section not sooner than 30 days after notification in writing of the necessity therefor is provided to the chairperson of the committee in each house of the Legislature that considers appropriations and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the Chairperson of the Joint Legislative Budget Committee, or his or her designee, may in each instance determine.

(e) Any transfer in excess of the limitations provided in subdivision (c) may be authorized not sooner than 30 days after notification in writing of the necessity to exceed the limitations is provided to the chairperson of the committee in each house that considers appropriations and the Chairperson of the Joint Legislative Budget Committee or his or her designee, may in each instance determine.

SEC. 28.00. (a) It is the intent of the Legislature in enacting this section to provide flexibility for administrative approval of augmentations for the expenditure of unanticipated federal funds or other non-state funds in cases that meet the criteria set forth in this section. However, this section does not provide an alternative budget process, and proposals for additional spending ordinarily should be considered in the annual State Budget or other state legislation.

(b) The Director of Finance may authorize the augmentation of the amount available for expenditure for any program, project, or function in the schedule of any appropriation in this act or any additional program, project, or function equal to the amount of any additional, unanticipated funds that he or she estimates will be received by the state during the 2004–05 fiscal year from any agency of local government or the federal government, or from any other nonstate source, provided that the additional funding meets all of the following requirements:

(1) The funds will be expended for a purpose that is consistent with state law.

(2) The funds are made available to the state under conditions permitting their use only for a specified purpose, and the additional expenditure proposed under this section would apply to that specified funding purpose.

(3) Acceptance of the additional funding does not impose on the state any requirement to commit or expend new state funds for any program or purpose.

(4) The need exists to expend the additional funding during the 2004–05 fiscal year.

(c) The Director of Finance also may reduce any program, project, or function whenever he or she determines that funds to be received will be less than the amount taken into consideration in the schedule.

(d) Any augmentation or reduction that exceeds either (1) two hundred thousand dollars (\$200,000) or (2) 10 percent of the amount available for expenditure in the affected program, project, or function may be authorized not sooner than 30 days after notification in writing of the necessity is provided to the chairperson of the committee in each house of the Legislature that considers appropriations, the chairpersons of the committees, and the appropriate subcommittees, in each house that considers the State Budget, and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the Chairperson of the Joint Legislative Budget Committee, or his or her designee, may in each instance determine. With regard to any proposed augmentation, the notification shall state the basis for the determination by the Director of Finance that the augmentation meets each of the requirements set forth in subdivision (b). This notification requirement does not apply to federal funds related to caseload increases in Medi-Cal, California Work Opportunity and Responsibility to Kids (Cal-WORKs), and Supplemental Security Income/State Supplementary Program (SSI/SSP).

(e) Any personnel action that is dependent on funds subject to this section shall not be effective until after the provisions of this section have been complied with. Any authorization made pursuant to this section shall remain in effect for the period the director may determine in each instance, but in no event after June 30, 2005.

SEC. 28.50. (a) Except as otherwise provided by law, an officer, department, division, bureau, or other agency of the state may expend for the 2004–05 fiscal year all moneys received as reimbursement from another officer, department, division, bureau, or other agency of the state that has not been taken into consideration by this act or any other statute, upon the prior written approval of the Director of Finance. The Department of Finance may also reduce any reimbursement amount and related program, project, or function amount if funds received from another officer, department, division, bureau, or other agency of the state will be less than the amount taken into consideration in the schedule.

(b) For any expenditure of reimbursements or any transfer for the 2004–05 fiscal year that exceeds two hundred thousand dollars (\$200,000), the Director of Finance shall provide notification in writing of any approval granted under this section, not less than 30 days prior to the effective date of that approval, to the chairperson of the committee in each house of the Legislature that considers appropriations, the chairpersons of the committees and the appropriate subcommittees in each house of the Legislature that consider the State Budget, and the Chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the Chairperson of the Joint Legislative Budget Committee, or his or her designee, may in each instance determine. Increases to reimbursements are not reportable under this section if the funding for the other officer, department, division, bureau, or other agency of the state providing the reimbursement has already been approved by the Legislature. These adjustments are considered technical in nature and are authorized in Section 1.50 of this act.

SEC. 29.00. The Department of Finance shall calculate and publish a listing of total personnel-years and estimated salary savings for each department and agency. These listings shall be published by the Department of Finance at the same time as the publication of (a) the Governor’s Budget, (b) the May Revision and (c) the Final Change Book.

(a) The listing provided at the time of the publication of the Governor’s Budget shall contain estimates of personnel-years for the prior year, current year, and budget year.

(b) The listing provided at the time of publication of the May Revision shall contain estimates of personnel-years proposed for the budget year.

(c) The listing provided at the time of the publication of the Final Change Book shall contain estimates of personnel-years for the budget year just enacted.

SEC. 30.00. Section 13340 of the Government Code is amended to read:

13340. (a) Except as provided in subdivision (b), on and after July 1, 2005, no moneys in any fund that, by any statute other than a Budget Act, are continuously appropriated without regard to fiscal years, may be encumbered unless the Legislature, by statute, specifies that the moneys in the fund are appropriated for encumbrance.

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

(1) The scheduled disbursement of any local sales and use tax proceeds to an entity of local government pursuant to Part 1.5 (commencing with Section 7200) of Division 2 of the Revenue and Taxation Code.

(2) The scheduled disbursement of any transactions and use tax proceeds to an entity of local government pursuant to Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code.

(3) The scheduled disbursement of any funds by a state or local agency or department that issues bonds and administers related programs for which funds are continuously appropriated as of June 30, 2005.

(4) Moneys that are deposited in proprietary or fiduciary funds of the California State University and that are continuously appropriated without regard to fiscal years.

(5) The scheduled disbursement of any motor vehicle license fee revenues, including the General Fund appropriations made pursuant to Sections 11000 and 11000.1 of the Revenue and Taxation Code, to an entity of local government pursuant to the Vehicle License Fee Law (Part 5 (commencing with Section 10701) of Division 2 of the Revenue and Taxation Code).

SEC. 31.00. (a) The appropriations made by this act shall be subject, unless otherwise provided by law, to Section 13320 of, and Article 2.5 (commencing with Section 13332) of Chapter 3 of Part 3 of Division 3 of Title 2 of, the Government Code, requiring expenditures to be made in accordance with the allotments and other provisions of fiscal year budgets approved by the Department of Finance.

(b) The fiscal year budgets shall authorize, in the manner that the Department of Finance shall prescribe, all established positions whose continuance for the year is approved and all new positions. No new position shall be established unless authorized by the Department of Finance on the basis of work program and organization.

(c) The Director of Finance, or his or her authorized designee, shall notify the Chairperson of the Joint Legislative Budget Committee within 30 days of authorizing any position not authorized for that fiscal year by the Legislature or any reclassification to a position with a minimum step per month of six thousand three hundred thirty-four dollars (\$6,334) as of July 1, 2004. He or she also shall report all transfers to blanket authorizations and the establishment of any permanent positions out of a blanket authorization.

(d) All positions administratively established pursuant to this section during the 2004–05 fiscal year shall terminate on June 30, 2005, except for those positions that have been (a) included in the Governor’s Budget for the 2005–06 fiscal year as proposed new positions, or (b) approved by the Department of Finance and reported to the Legislature after the 2005–06 Governor’s Budget submission to the Legislature. The positions identified in (a) and (b) above may be reestablished by the Department of Finance during the 2005–06 fiscal year, provided these positions are shown in the Governor’s Budget for the 2006–07 fiscal year as submitted to the Legislature, or in subsequent Department of Finance letters to the Legislature, and provided that these positions do not result in the establishment of positions deleted by the Legislature through the budget process for the 2005–06 fiscal year.

(e) No money in any 2004–05 fiscal year appropriation not appropriated for that purpose may be expended for increases in salary ranges or any other employee compensation action unless the Department of Finance certifies to the salary and other compensation-setting authority, prior to the adoption of the action, that funds are available to pay the increased salary or employee compensation resulting from the action. Prior to certification, the Department of Finance shall determine whether the increase in salary range or employee compensation action will require supplemental funding in the 2005–06 fiscal year. If the Department of Finance determines that supplemental funding will be required, no certification shall be issued unless notification in writing is given by the Department of Finance, at least 30 days before certification is made, to the chairperson of the committee in each house that considers appropriations and the Chairperson of the Joint Legislative Budget Committee, or a lesser time which the chairperson of the joint committee, or his or her designee, determines.

(f) A certification on a payroll claim that expenditures therein are in accordance with current budgetary provisions as approved by the Department of Finance shall be sufficient evidence to the Controller that these expenditures comply with the provisions of this section.

SEC. 32.00. (a) The officers of the various departments, boards, commissions, and institutions, for whose benefit and support appropriations are made in this act, are expressly forbidden to make any expenditures in excess of these appropriations. Any indebtedness attempted to be created against the state in violation of this section shall be null and void, and shall not be allowed by the Controller nor paid out of any state appropriation. Any member of a department, board, commission, or institution who shall vote for any expenditure, or create any indebtedness against the state in excess of the respective appropriations made by this act shall be liable both personally and on his or her official bond for the amount of the indebtedness, to be recovered in any court of competent jurisdiction by the person or persons, firm, or corporation to which the indebtedness is owing.

(b) Subdivision (a) does not apply to the expenditure of moneys to fund continuous appropriations, including appropriations made in the California Constitution, and federal laws mandating the expenditure of funds.

SEC. 33.00. If any item of appropriation in this act is vetoed, eliminated, or reduced by the Governor under Section 10 of Article IV of the California Constitution, while approving portions of this act, such veto, elimination, or reduction shall not affect the other portions of this act, and these other portions of this act, so approved, shall have the same effect in law as if any vetoed or eliminated items of appropriation had not been present in this act, and as if any reduced item of appropriation had not been reduced.

SEC. 33.50. Notwithstanding any other provision of law, the Director of Finance is authorized to reduce amounts in items of appropriation in this act for the 2004–05 fiscal year to the extent that savings are achieved through strategic sourcing procurement reform. The director shall provide to the Chairperson of the Joint Legislative Budget Committee an implementation timeline for this section which shall include, but is not limited to, a description of strategic sourcing and a report of proposed savings resulting from strategic sourcing. This report is due at least 30 days prior to any reduction of an item of appropriation pursuant to this section.

SEC. 34.00. If any portion of this act is held unconstitutional, that decision shall not affect the validity of any other portion of this act. The Legislature hereby declares that it would have passed this act, and each portion thereof, irrespective of the fact that any other portion be declared unconstitutional.

SEC. 34.50. (a) Notwithstanding any other provision of law, the Director of Finance is authorized to reimburse General Fund expenditures for the 2004–05 fiscal year from the balance in the Public Benefit Trust Fund. The total reimbursement shall not exceed the amount available in the Public Benefit Trust Fund.

(b) This reimbursement will result in overall General Fund savings. It is not the intent of the Legislature in enacting this section to provide additional expenditure authority to state programs.

(c) It is the intent of the Legislature to review proposals and consider whether to apportion some portion of punitive damage awards to the state and whether the payment of those awards should be deductible as a business expense for income tax purposes.

SEC. 35.00. (a) Notwithstanding any other provision of law, the Director of Finance is authorized to reimburse General Fund expenditures for the 2003–04 and 2004–05 fiscal years from the balance in the Deficit Recovery Fund. The total reimbursement shall not exceed the amount available in the Deficit Recovery Fund.

(b) This reimbursement will result in overall General Fund savings. It is not the intent of the Legislature in enacting this section to provide additional expenditure authority to state programs.

SEC. 35.50. (a) For purposes of paragraph (1) of subdivision (f) of Section 10, and subdivision (f) of Section 12, of Article IV of the California Constitution, "General Fund revenues" means the total resources available to the General Fund for a fiscal year.

(b) For purposes of subdivision (f) of Section 12 of Article IV of the California Constitution, the estimate of General Fund revenues for the 2004–05 fiscal year pursuant to this act, as passed by the Legislature, is \$80,390,500,000.

SEC. 36.00. This act, inasmuch as it provides for appropriations for the usual and current expenses of the state, shall, under the provisions of Section 8 of Article IV of the California Constitution, take effect immediately.

SEC. 37.00. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

This act makes appropriations and contains related provisions for support of state and local government for the 2004–05 fiscal year and provides for capital outlay appropriations in continuance of existing programs and to promote and sustain the economy of the state. It is imperative that these appropriations be made available for expenditure not later than July 1, 2004. It is therefore necessary that this act go into immediate effect.

INDEX BY BUDGET TITLE

SEC. 99.00. The following provides an index to the appropriations and related provisions of this act, by organization in alphabetical order, with the code number of the affected organization. The organization code is the first four numbers of any item number in this act. For ease of reference, the appropriation items in this act are organized in numerical order, and all of the appropriation items for any one organization are adjacent to one another.

Department	Organization Code
“A”	
Administrative Law, Office of	8910
Aging, Commission on	4180
Aging, Department of	4170
Agricultural Labor Relations Board	7300
Air Resources Board, State	3900
Alcohol and Drug Programs, Department of	4200
Alcoholic Beverage Control, Department of	2100
Alcoholic Beverage Control Appeals Board	2120
Alternative Energy and Advanced Transportation Financing Authority, California	0971
Arts Council, California	8260
Assembly	0120
Audits, Bureau of State	8855
“B”	
Baldwin Hills Conservancy	3835
Bay-Delta Authority, California	3870
Boards. See subject (e.g., Air Resources, Control, etc.)	
Boating and Waterways, Department of	3680
Business, Transportation and Housing, Secretary for .	0520
“C”	
Capital Outlay Planning and Studies Funding	9860
Child Support Services, Department of	5175
Chiropractic Examiners, Board of	8500
Citizens’ Compensation Commission, California	8385
Coachella Valley Mountains Conservancy	3850
Coastal Commission, California	3720
Coastal Conservancy, State	3760
Colorado River Board of California	3460

Department	Organization Code
Community Colleges, Board of Governors of the California	6870
Community Services and Development	4700
Conservation, Department of	3480
Conservation Corps, California	3340
Consumer Affairs-Bureaus, Programs and Divisions, Department of.....	1111
Consumer Affairs-Regulatory Boards, Department of.....	1110
Consumer Power and Conservation Financing Authority, California.....	8665
Contingencies or Emergencies, Augmentation for.....	9840
Contingencies or Emergencies, Loans for.....	9850
Contributions to. See subject (e.g., Judges' Retirement, Teachers' Retirement, etc.)	
Controller, State	0840
Corporations, Department of.....	2180
Correctional Peace Officers' Standards and Training, Commission on.....	5480
Corrections, Board of	5430
Corrections, Department of.....	5240
Councils. See subject (e.g., Arts, etc.)	

“D”

Debt and Investment Advisory Commission, California	0956
Debt Limit Allocation Committee, California	0959
Delta Protection Commission.....	3840
Department of. See subject (e.g., Corrections, Food and Agriculture, etc.)	
Developmental Disabilities, State Council on	4100
Developmental Services, Department of.....	4300

“E”

Education Audit Appeals Panel	6125
Education, Department of	6110
Education, Office of the Secretary for.....	0558
Electricity Oversight Board	8770
Emergency Medical Services Authority	4120
Emergency Services, Office of.....	0690
Employee Compensation, Augmentation for	9800
Employment Development Department	7100
Energy Resources Conservation and Development Commission.....	3360
Environmental Health Hazard Assessment, Office of.....	3980

Department	Organization Code
Environmental Protection, Secretary for	0555
Equalization, State Board of	0860
Equity Claims of California Victim Compensation and Government Claims Board and Settlements and Judgments by Department of Justice.....	9670
 “F” 	
Fair Employment and Housing Commission.....	1705
Fair Employment and Housing, Department of.....	1700
Fair Political Practices Commission	8620
Finance, Department of	8860
Financial Institutions, Department of	2150
Fish and Game, Department of	3600
Food and Agriculture, Department of.....	8570
Forestry and Fire Protection, Department of.....	3540
Franchise Tax Board.....	1730
 “G” 	
Gambling Control Commission, California.....	0855
General Services, Department of.....	1760
Golden State Tobacco Securitization Corporation	9612
Governor’s Office	0500
 “H” 	
Hastings College of the Law	6600
Health and Human Services, Secretary for California.	0530
Health and Human Services Agency Data Center	4130
Health and Dental Benefits for Annuitants	9650
Health Services, Department of	4260
High-Speed Rail Authority	2665
Highway Patrol, Department of the California.....	2720
Horse Racing Board, California	8550
Housing and Community Development, Department of	2240
 “I” 	
Independent Living Council, State	5170
Industrial Development Financing Advisory Commission, California.....	0965
Industrial Relations, Department of.....	7350
Institutions (See Department of Corrections, State Department of Health, etc.)	
Inspector General, Office of	0552

Department	Organization Code
Insurance, Department of.....	0845
Integrated Waste Management Board, California	3910
Interest Payments to the Federal Government.....	9625

“J”

Joint Expenses (Legislature)	0130
Judges’ Retirement Fund, Contributions to	0390
Judicial Performance, Commission on.....	0280
Judiciary	0250
Justice, Department of.....	0820

“L”

Lands Commission, State	3560
Labor and Workforce Development Agency	0559
Law Revision Commission, California	8830
Legislative Analyst, Office of the	0130
Legislative Counsel Bureau	0160
Legislature (See Assembly, Senate, or Joint Expenses)	
Library, California State	6120
Lieutenant Governor, Office of the	0750
Local Government Financing.....	9210
Lottery Commission, California State	0850

“M”

Managed Health Care, Department of.....	2400
Managed Risk Medical Insurance Board	4280
Mandates, Commission on State	8885
Medical Assistance Commission, California	4270
Mental Health, Department of	4440
Military Department	8940
Milton Marks “Little Hoover” Commission on California State Government Organization and Economy	8780
Motor Vehicles, Department of	2740

“N”

Native American Heritage Commission.....	3780
--	------

“O”

Occupational Information Coordinating Committee, California	6330
---	------

Department	Organization Code
Office of. See subject (e.g., Emergency Services, Planning and Research, etc.)	

“P”

Parks and Recreation, Department of	3790
Payment of Interest on General Fund Loans.....	9620
Payment to Counties for Costs of Homicide Trials....	8180
Peace Officer Standards and Training, Commission on	8120
Personnel Administration, Department of	8380
Personnel Board, State	1880
Pesticide Regulation, Department of	3930
Pilot Commissioners for the Bays of San Francisco, San Pablo and Suisun, Board of	8530
Planning and Research, Office of.....	0650
Political Reform Act of 1974.....	8640
Postsecondary Education Commission, California.....	6420
Prison Terms, Board of.....	5440
Public Defender, State	8140
Public Employees’ Retirement System	1900
Public Employment Relations Board.....	8320
Public Utilities Commission	8660

“Q”

Quality Education Commission, California.....	6130
---	------

“R”

Real Estate, Department of.....	2320
Real Estate Appraisers, Office of.....	2310
Rehabilitation, Department of	5160
Resources, Secretary for	0540

“S”

San Diego River Conservancy	3845
San Francisco Bay Conservation and Development Commission.....	3820
San Gabriel and Lower Los Angeles Rivers and Moun- tains Conservancy	3825
San Joaquin River Conservancy.....	3830
Santa Monica Mountains Conservancy.....	3810
Scholarshare Investment Board	0954
School Finance Authority, California.....	0985
Science Center, California	1100

Department	Organization Code
Secretary of State	0890
Seismic Safety Commission.....	8690
Senate.....	0110
Social Services, Department of.....	5180
Special Resources Program.....	3110
Special Transportation Programs.....	2640
State. See subject (e.g., Controller, Treasurer, etc.)	
State and Consumer Services, Secretary for	0510
State Mandates, Commission on	8885
Statewide Health Planning and Development, Office of.....	4140
Status of Women, Commission on the.....	8820
Stephen P. Teale Data Center.....	2780
Student Aid Commission	7980
Summer School for the Arts, California State.....	6255

“T”

Tahoe Conservancy, California.....	3125
Tax Credit Allocation Committee, California.....	0968
Tax Relief.....	9100
Teacher Credentialing, Commission on	6360
Teachers’ Retirement System, State.....	1920
Toxic Substances Control, Department of.....	3960
Traffic Safety, Office of.....	2700
Transportation, Department of	2660
Transportation Commission, California	2600
Transportation Programs, Special	2640
Treasurer, State	0950
Trial Court Funding, State	0450

“U”

Uniform State Laws, Commission on.....	8840
University, California State.....	6610
University of California.....	6440

“V”

Veterans Affairs, Department of.....	8955
Veterans’ Home of California—Barstow.....	8965
Veterans’ Home of California—Chula Vista	8966
Veterans’ Home of California—Yountville	8960
Victim Compensation and Government Claims Board, California	8700

Department	“W”	Organization Code
Water Resources, Department of		3860
Water Resources Control Board, State.....		3940
Wildlife Conservation Board.....		3640
Workforce Investment Board, California		7120
	“Y”	
Youth and Adult Correctional Agency, Secretary for..		0550
Youth Authority, Department of the		5460

INDEX FOR CONTROL SECTIONS

SEC. 99.50. The following is an index to the general sections of this act. These sections serve to define terms and identify restrictions concerning the appropriations contained in this act.

- 1.00 Budget Act Citation
- 1.50 Intent and Format
- 2.00 Availability of Appropriations
- 3.00 Defines Purposes of Appropriations
- 3.50 Benefit Charges Against Salaries and Wages
- 3.60 Contribution to Public Employees' Retirement Benefits
- 4.10 Employee Compensation Savings
- 4.11 Establishing New Positions
- 4.20 Contribution to Public Employees' Contingency Reserve Fund
- 4.30 Lease Revenue Payment Adjustments
- 4.35 Loaned Positions
- 4.45 e-Budget
- 4.60 Rent Increase
- 4.80 State Public Works Board Interim Financing
- 4.90 Architectural Revolving Fund Transfer
- 4.95 Inmate Construction Revolving Account Transfer
- 5.25 Attorney's Fees
- 5.30 Department of Justice Attorney's Fees
- 5.40 CALFED Bay-Delta Program
- 6.00 Project Alterations Limits
- 6.60 Workers' Compensation Survey
- 8.00 Anti-Terrorism Federal Reimbursements
- 8.50 Federal Funds Receipts
- 8.51 Federal Funds Accounts
- 8.52 Federal Reimbursements
- 9.20 Administrative Costs Associated With the Acquisition of Property
- 9.30 Federal Levy of State Funds
- 9.45 Proposition 40-Reporting Requirements
- 9.50 Minor Capital Outlay Projects
- 11.00 EDP/Information Technology Reporting Requirements
- 11.10 Reporting of Statewide Software License Agreements
- 11.11 Privacy of Information in Pay Stubs
- 11.52 Transfer of Unencumbered Balance of Various Funds to the General Fund
- 12.00 State Appropriations Limit (SAL)
- 12.10 Brown vs. U.S. Health and Human Services Settlement Payments
- 12.30 Special Fund for Economic Uncertainties
- 12.32 Proposition 98 Funding Guarantee
- 12.40 Mega-Item Flexibility
- 12.60 Categorical Contingency Transfer Authority for Deficiencies

- 12.75 Basic Aid Categorical Reduction K-12
 - 13.00 Legislative Counsel Bureau
 - 14.00 Special Fund Loans Between Boards of the Department of
Consumer Affairs
 - 15.00 Data Center Consolidation
 - 16.00 Traffic Congestion Relief Fund Loan Repayment
 - 17.00 Federal Health Insurance Portability and Accountability Act
(HIPAA)
 - 24.00 State School Fund Allocations
 - 24.03 Reading Control
 - 24.10 Transfer Surplus of Driver Training Penalty Assessment
Fund to the General Fund
 - 24.30 Transfer School Building Rental Income to the General Fund
 - 24.60 Report of Lottery Funds Received
 - 24.70 Local Educational Agency Fiscal Accountability
 - 25.25 21st Century Project
 - 25.50 SCO Apportionment Payment System Assessments
 - 26.00 Intraschedule Transfers
 - 28.00 Program Change Notification
 - 28.50 Agency Reimbursement Payments
 - 29.00 Personnel-Year Estimates of Governor's Budget, May
Revision and Final Change Book
 - 30.00 Continuous Appropriations
 - 31.00 Budget Act Administrative Procedures for Salaries and
Wages
 - 32.00 Prohibits Excess Expenditures
 - 33.00 Item Veto Severability
 - 33.50 Strategic Sourcing
 - 34.00 Constitutional Severability
 - 34.50 General Fund Public Benefit Trust Fund
 - 35.00 General Fund Deficit Recovery Payments
 - 35.50 Estimated General Fund Revenue pursuant to Assembly
Constitutional Amendment 5 of the Fifth Extraordinary
Session
 - 36.00 Provides that Budget Act is for Usual and Current
Expenses
 - 37.00 Urgency Clause
 - 99.00 Alphabetical Organization Index
 - 99.50 Numerical Control Section Index
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